

SHIPPING CASUALTIES.

(LOSS OF THE STEAMSHIP "LUSITANIA.")

PROCEEDINGS *in Camera* on Tuesday, 15th, and Friday, 18th June, 1915, at the Formal Investigation into the circumstances attending the foundering on 7th May, 1915, of the British Steamship "Lusitania," of Liverpool, after being torpedoed off the Old Head of Kinsale, Ireland.

The Report of the Court (Cd. 8022), part of the Proceedings on Tuesday, 15th June, and the Proceedings on Wednesday, 16th June; Thursday, 17th June; and Thursday, 1st July, 1915, were published in 1915, the latter in daily parts by the Stationery Office from whom they can be obtained.

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CENTRAL HALL, WESTMINSTER.

PROCEEDINGS in Camera on the 15th and 18th June 1915,

BEFORE

THE RIGHT HONOURABLE LORD MERSEY,

Wreck Commissioner of the United Kingdom,

WITH

ADMIRAL SIR F. S. INGLEFIELD, K.C.B.,

LIEUTENANT COMMANDER H. J. HEARN,

CAPTAIN DAVID DAVIES,

CAPTAIN JOHN SPEDDING

Acting as Assessors on a Formal Investigation ordered by the Board of Trade into the loss of the s.s. "Lusitania."

Tuesday, 15th June, 1915.

THE COMMISSIONER: I need hardly say to you gentlemen that what passes in this room is to be considered as being in the strictest confidence, and is not to be mentioned by anybody to anybody at all outside. I hope that I have the assent of all of you to that position.

Captain WILLIAM THOMAS TURNER recalled. Further examined by the ATTORNEY GENERAL.

I just want you to look at this chart for a moment (handing the same to the WITNESS). You will see there is the Fastnet Rock?—Yes.

There is the Old Head of Kinsale?—Yes.

Will you tell his Lordship and the Court how you passed the Fastnet Rock?

Mr. Butler Aspinall: I have got Captain Turner to mark a chart. I have a chart on which he has marked the course which he actually steered, and the course which in ordinary circumstances he would have steered—This is the usual run in ordinary times of peace, and here is where we came along—down here (pointing on the chart).

The Commissioner: That is the actual line you took?—Yes, as near as possible.

The Attorney-General: Is this the Old Head of Kinsale?—Yes.

And where were you?—About nine or ten miles off. That is only approximate. Here is the line we came, from 25 or 26 off the Brow Head.

Where did you come to from there?—This way. Passing round the north coast of Ireland?—Yes.

You took a detour?—Yes.

Had you got from the Admiralty general instructions?—Yes.

Do you produce them?—Yes.

Have you your own copy?—My copy went down in the ship.

May I take it that you had it on board?—Yes.

Is it dated 3rd November, 1914. Have you an earlier one than this?—I had an earlier one.

I want the one of 3rd November, 1914. If you have not got it I will not delay over it. The Admiralty, no doubt, will admit that they got this, and I want to know what you got?—I know I got them.

Did you get this one: "Trade routes during War." "All Masters must obtain the latest copies of the Admiralty Notices to Mariners before sailing. These, together with the last monthly summary, can be obtained free of charge at any of the Mercantile

Marine Offices in the United Kingdom." Did you get that?—I did.

Did you, before you started from the United Kingdom, obtain the latest copy of Admiralty Notices to Mariners?—I did.

Where did you get those?—The Company supplied them.

"All orders by British men-of-war must be complied with immediately."?—Yes.

Now listen to this: "When on voyage vessels must neither widely both sides of the track, and should avoid all other vessels directly they or their smoke are sighted. Points where trade converges should, when possible, be passed through at night. Territorial waters should be used when possible. Remember that the enemy will never operate in sight of land if he can possibly avoid it." Did you get that?—Yes.

"Every effort is to be made to avoid capture and to cause the enemy to burn coal. Avoid excessive smoke. Colours are no indication of nationality until a vessel opens fire. All lights (except navigation lights) must be hidden, and navigation lights should not exceed the brilliancy laid down in Rules for Prevention of Collisions at Sea. The second masthead light is unnecessary. Vessels quitting port in a dangerous vicinity should endeavour to sail soon after dark, make a good offing by dawn, keep off usual routes, and dim brilliancy of lights. Similarly, landfalls should be made at dawn." Do you remember getting that?—Yes, I remember it.

Did you get this one; this is a telegram on the 30th January to Sir Norman Hill, the solicitor to the Company, from the Admiralty: "Confidential" (it is dated 13th January, 1915). "British shipping should be advised to keep a sharp look-out for submarines and display signals of neutral country, or show no colours while anywhere in the vicinity of the British Islands. British signals must, however, be displayed when British or Allied men-of-war should be met. Home flags should not be flown."—I remember getting that.

I want to know whether at the time your ship was torpedoed you had any flag flying?—None whatever.

Had you the name and port of registry obscured?—Painted out.

Did you get a copy of this, which is dated 15th February, 1915: "This paper is for the Master's personal

information, is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice. Instructions for Owners and Masters of British merchant ships issued with reference to the operations of German submarines against British shipping?" Did you get that one?—I do not remember that one.

It is especially issued for Masters?—I might have done.

The Commissioner: Look at that paper. Did you receive a paper like that?—Yes.

The Attorney-General: On this you see: "Section 3. Vessels approaching or leaving British or French ports between latitude 48° N. and latitude 63° N. and East of longitude 15° W. A sharp look-out should be kept for submarines and vessels navigating in the area should have their lights turned out fully extinguished and ready for lowering. The danger is greatest in the vicinity of the ports and off the prominent headlands of the coast. Important landfalls in this area should be made after dark whenever possible." Do you remember that?—Yes.

Now I want to know, when you were navigating on the 7th May had your boats turned out?—At half-past five on Thursday morning.

Had your boats turned out?—Yes.

Were they provisioned?—Yes.

To what extent?—Tanks of biscuits and water.

In all the boats?—In all the boats.

And were they ready for lowering?—All ready for lowering, with the falls led down.

Did you observe that you were warned that the danger is greatest in the vicinity of the ports?—I did. And off the prominent headlands of the coast?—Yes.

I will ask you something about that afterwards. Then it says this: "So far as consistent with the particular trades and state of tides, vessels should sail at dusk and make their ports at dawn." You had that?—Yes.

Did you get this on the 15th April of the present year?—

The Commissioner: Were these documents sent to the Cunard Company as well as to the captain of the ship?

The Attorney-General: They were sent to the Company.

Witness: I received them from the Company.

Here is one of the 15th April, 1915: "Daily Voyage Notice.—For the purposes of the Government War Insurance Scheme the Admiralty consider all voyages may be undertaken subject to local conditions, except the following:—we need not go into that. "German submarines appear to be operating chiefly off prominent headlands and landfalls. Ships should give prominent headlands a wide berth where not otherwise directed in these notes. Ports such as Dover should be passed at utmost speed." Did you get that?—Yes.

You knew, therefore, that you should give prominent headlands a wide berth?—Yes.

Then there is one on the 22nd March. Will you tell me whether you got it; this is really from the Admiralty to the Intelligence Officer: "Warn browned-bound British merchant ships that when making principal landfall at night they should not approach nearer than is absolutely necessary for safe navigation. Most important that vessels passing up the Irish or English Channel should keep mid-channel course." Did you get that?—I got that, yes.

"War experience has shown that fast steamers can considerably reduce the chance of a successful surprise submarine attack by zigzagging, that is to say, altering course at short and irregular intervals, say, 10 minutes to half an hour. This course is almost invariably adopted by warships when cruising in an area known to be infected by submarines. The underwater speed of a submarine is very low, and it is exceedingly difficult for her to get into position to deliver an attack unless she can observe and predict the course of the ship attacked. It is believed that the regulations of many steamship lines prescribe that the master shall be on deck whenever course is altered. It is for the consideration of owners whether in the present circumstances some relaxation of rules of this character is not advisable in the case of fast ships, in order to admit zigzagging being carried out without throwing an undue strain upon the master." Did you read that?—I did.

On the 22nd March did you get this—I think it is

really the same as I read before—"Most important that vessels passing up Irish or English Channel should keep a mid-channel course"?—Yes, I got that.

I want to know, in addition, on the 6th May did you get a wireless telegram to the effect that submarines were active off the south coast of Ireland?—I did.

That was from the Admiralty?—From the Admiralty.

I suppose it came from Valentia, did it?—I presume so.

That would be the nearest station. Was it in cipher?—It was in the M. B. Code, I think.

It was in code, was it?—Yes.

Did you also get on May 6th a message saying: "Take Liverpool pilot at bar and avoid headlands"?—I did.

"Pass harbours at full speed: steer mid-channel course"?—Yes.

"Submarines at Fastnet"?—Yes.

Do you remember whereabouts you got that?—No. I cannot remember.

That was on the 6th, the day before?—I cannot say. But you remember getting it?—I remember getting it.

The Commissioner:—On the 6th?—Yes.

You remember getting it the day before the sinking of the ship?—Yes.

The Attorney-General: On the 7th, did you get this: "Submarines active in southern part of Irish Channel. Last heard of 35 miles south of Coneybeg Light Vessel"?—I did.

Will you show us where the Coneybeg Light Vessel is on the chart?—Here (pointing on the chart).

The Commissioner: Were you steering a parallel course?—To the land.

The Attorney-General: Were you steering a parallel course to Fastnet?—No.

You went right round, and came up?—I was getting in to get a fix to see how far I was off the land.

Did you get another wireless: "Submarines five miles south of Cape Clear proceeding west when sighted at 10 a.m."?—I did.

What I want to ask you first is why, with that information before you, did you come so close to Old Kinsale Head?—To get a fix. We were not quite sure what land it was; we were so far off.

Is that all you have to say? You say you were warned specially to avoid the headlands and to stay in mid-channel; these were the two instructions which were given?—Yes, but I wanted to find out where I was.

Do you mean to say you had no idea where you were?—Yes, I had an approximate idea, but I wanted to be sure.

The Commissioner: Why?—Well, my Lord, I do not navigate a ship on guess-work.

But why did you want to go groping about to try and find where land was?—So that I could get a proper course.

I do not understand this. Do you mean to say it was not possible for you to follow the Admiralty directions which were given you?—Yes, it was possible.

Then why did you not do it?—I considered I followed them as well as I could.

The Attorney-General: I only want to get the fact. You do not suggest for a moment, do you, that when the torpedo struck the "Lusitania" you were in mid-channel?—It is practically what I call mid-channel.

The Commissioner: Whereabouts were you on that chart?—The Attorney-General: About there (pointing).

The Commissioner: Do you call that mid-channel?—Yes, I should call that mid-channel, as a seafaring man.

The Attorney-General: Do you really call eight miles from the land mid-channel? Do you not know perfectly well that what the Admiralty instructions were aiming at was that you should be further out from land than on the ordinary course?—So I was; considerably further out.

At that time not very much?—I think about 10 miles away.

Would you ordinarily go right in?—Yes, along that line there.

Why would you do that?—We generally go along there to make the land and get a good position.

But that runs you right up to the Head?—Yes,

about a mile off. We generally pass it a mile off under ordinary circumstances in fine weather.

There was nothing to prevent you being much further out?—No, but I did not think it was necessary to go further out.

You had as a matter of fact come in several miles?—I had to find my position.

And there was nothing at the time to have prevented you going along on a course such as you had started in the morning, and keeping 20 miles out.—Yes. I wanted to find out the ship's position.

Were you not able to find it out approximately from your navigation?—I do not work on approximation, if I can get a proper fix.

But you deemed it of some importance to try and avoid the submarine?—Certainly; most important.

You had plenty of time in hand, had you not?—Yes, plenty of time.

And there was nothing to prevent you, therefore, keeping well away from land for a considerable time?—No.

Even if you had put off finding out your exact position, you could have waited?—I could have waited, and it might have come on foggy; then we should have been worse off.

In the next place, were you not told not to pass near headlands?—I do not consider I passed near headlands.

What do you call the Old Head of Kinsale?

The Commissioner: That is a headland.—That is a headland, but I passed ten miles from it, and better. The Attorney-General: You were told to give that a wide berth?—Yes, but what is the definition of a wide berth?

I am asking you your view?—My view is that I gave it a wide berth.

Ten miles?—Yes.

And you thought that a wide berth?—Yes.

Even after you had been informed that the German submarines appeared to be operating chiefly off prominent headlands?—Yes.

Did you consider it really at all?—I did; I thought I was quite far enough off.

Did you take counsel of anybody about it?—Yes, I spoke to the chief officer, and also to the staff-captain.

At all events, whether rightly or wrongly, that is all you did, and you thought ten miles sufficient?—Yes.

And when you made up your mind to the ten miles, you had in view that there might be submarines near the headland?—Yes.

The Commissioner: Would you ask him how long before he was torpedoed he had Old Kinsale Head in sight?

The Attorney-General: You hear his Lordship's question. How long were you able to see the Head?—Not very long. We could see it, but we could not distinguish what it was.

But you saw the land?—Yes.

How long was that before you were torpedoed? When did you first see the land?—We saw the land down here, off Brice Head.

You knew where you were there?—Approximately, but I was not quite sure.

But you are accustomed to go this course, you know?—Not down here, so far off.

But you were able, I suppose, through navigating and seeing Brice Head, to know how far you had gone from the land?—No, I was not quite sure.

In or about, did you know what route you were travelling?—Yes.

And you knew approximately how far you had gone?—Yes.

Then having gone that far, you proceeded to come up again to look for the land?—Not to look for it, but to find out what distance I was off it.

So you knew that approximately?—Yes; it was guess-work.

It is not guess-work?—It was with me, and I wanted to get my proper position off the land. I do not do my navigation by guess-work.

Tell us how long before the ship was torpedoed you saw the land?—I cannot remember that quite some time—a considerable time.

How long?—Two or three hours, I should think. Two or three hours before you were torpedoed?—Yes.

How far away from it were you then?—Probably 20 or 30 miles.

Then you were able to judge when you saw the land as to whether you were in mid-channel or not, or whatabouts you were?—I judged we were quite sufficiently far off; that is all I can say.

That is not an answer to my question. You knew that if you kept out, seeing the land 20 miles off, as you say, even then you were not in mid-channel?—Yes, I considered it mid-channel.

You considered it mid-channel? What is the width thereof?—I could not tell you.

The Commissioner: But you could form an idea?—No, my Lord, I cannot.

Is it a thousand miles wide?—No, it might be 30 or 40.

The Attorney-General: But I am talking about where you were.

The Commissioner: Off Old Kinsale Head, what is the width of the channel there?—140.

The Commissioner: Then how can you say that ten miles off Old Kinsale Head is mid-channel? You must have known you were within that distance, and do you call that mid-channel?

The Attorney-General: You really do not think, do you—you have been very frank—that you were in mid-channel or anywhere near it?—I did not think it was mid-channel, exactly, but I thought I was far enough off the land.

That is a question of judgment. I only want the facts. I am not at the moment considering you. You thought it sufficient to be ten miles off Old Kinsale Head?—Yes.

You knew that was not mid-channel, nor anything like it?—No, I thought at the time it was about 15. The officers marked it off and made it ten miles. I thought it was about 15.

Never mind. Take this from me: you were able for two hours to see the land?—Yes.

I put it to you, whether it was right or wrong, you thought it sufficient to be that ten miles off?—Yes.

And therefore you did not think it necessary to be in mid-channel?—No.

Now why did you disobey the Admiralty instructions? You did not try to get to mid-channel; that was not your aim?—My aim was to find the land.

What I am putting to you is that you never for a moment tried to carry out what the Admiralty had laid down?—I thought I was trying my best, anyhow.

Now I want to ask you another question. You knew that was a dangerous zone?—Yes.

And you had these telegrams, we know. Why were you only going at 15 knots?—Because I was getting up to the Bar, and did not want to have to stop at the Bar.

What I want to ask you about that is this. You see, you told me you had plenty of time in hand?—Yes.

What was there to prevent you keeping well away until it became necessary for you to come up and cross over to Liverpool to the Bar? You see, you were trying to waste your time by going slowly near the land?—15 knots. There was plenty of time.

You could have kept out?—We could have kept out, but when we were up here there was a submarine reported off Fastnet, down west, and we had passed that.

You had all this time in hand, and you were purposely going slow?—Not slow—15 knots.

Well, not your best speed; passing ten miles from a headland instead of going at full speed up the channel?—Yes.

Did you do that deliberately?—I did.

Was that not against your instructions?—Well, yes.

The Commissioner: When did you reduce your speed from 21 knots to 15?—When we made the land.

When was that?—I forgot the time—ten or eleven o'clock probably, as near as I can remember.

The Attorney-General: That morning there was a bit of a fog, and you reduced speed?—Yes, to 15 knots.

And then you got up to 15 again?—Yes.

You had plenty of coal on board, had you not, to go 21 knots?—Yes.

The distance from where you were, you have already told me, to Liverpool was about 250 miles?—Yes.

How far would it be to the Bar?—It bears 15 miles from the Rock; about 238.

Do you know at that time up to what hour you could have crossed the Bar?—About 4 o'clock. 6.53 was high water.

Could you not have crossed the Bar at any time between 4 a.m. and 9.30?—Yes.

And, therefore, you had, even going at 18 knots, 240 miles, several hours in hand at which you could have crossed the Bar without any delay?—If I had gone more than 18 knots I should have been there before I could cross.

I am putting it that you had so much time that it was not necessary for you at this particular period to have come near land at all but to have stood well out?—I could have gone out again.

You could have stood out. Why did you go this long way out at Fastnet?—To keep clear of submarines.

Exactly; and why did not you stay out to keep clear?—Because, as I said before, I wanted to find out where the ship was for the purpose of navigating her safely.

Then there was nothing to prevent you, on the facts I have elicited, keeping in mid-channel, and still arriving in proper time at Liverpool?—No.

The Commissioner: I want him to do justice to himself. (To the Witness.) I do not understand what you mean when you say you were coming in because you wanted to navigate the ship safely. What danger was there in mid-channel?—Well, my Lord, it might have come on a thick fog, and I did not know exactly the proper position of the ship, and two or three miles one way or the other might put me ashore on either side of the channel. Therefore, I wanted to know my proper position.

Then do you suggest these Admiralty instructions are all wrong?—No, I do not suggest that at all.

And that they give you directions to do something which may send you ashore if you do it?—No, I am not speaking in that sense.

The Attorney-General: It is not an impossible instruction to carry out, is it, to go up mid-channel?—None whatever, providing you knew the position of your ship, but I want to find where she is before I can do that.

But you know the position of your ship when you were off the coast here?—I wanted to know the proper distance. Distances are very deceptive, particularly in clear weather.

But you told me there is no difficulty in steering up mid-channel?—None, whatever, providing you know your proper position.

Now, tell me this. Did you signal the boat?—No.

You were told to do that?—I understood it was only when you saw a submarine that you should signal.

You had information that there were submarines about, and the instruction to you were to signal.

The Commissioner: And I think the reason is stated, too.

The Attorney-General: Yes, my Lord. (To the Witness.) You told me you read this: "War experience has shown that fast steamers can considerably reduce the chance of a successful submarine attack by zig-zagging—that is to say, altering course at short and irregular intervals, say ten minutes to half an hour. This course is invariably adopted by warships when cruising in an area known to be infested by submarines." Did you signal?—No.

Why?—Because I did not think it was necessary until I saw a submarine.

You were told zig-zagging was a safeguard; you were told submarines were infesting the northern part of the Irish coast; you had plenty of time in hand, and you did not obey the orders?—I did not.

The Commissioner: Do these instructions mention the difficulty a submarine experiences when a ship is zig-zagging?

The Attorney-General: Yes.

The Commissioner: Will you read that?

The Attorney-General: "War experience has shown that fast steamers can considerably reduce the chance of a successful surprise submarine attack by zig-zagging—that is to say, altering course at short and irregular intervals, say ten minutes to half an hour. This course is almost invariably adopted by warships when cruising in an area known to be infested by submarines. The underwater speed of a submarine is very low and it is exceedingly difficult for her to get into position to deliver an attack unless she can observe and predict the course of the ship attacked."

The Commissioner: That is what I have in my mind.

The Attorney-General: And that is where the importance of the zig-zagging comes in. (To the Witness.) You would have plenty of time. I understand zig-zagging takes more time, but why did not you signal?—Because I thought it was not necessary until I saw a submarine.

The Commissioner: But the whole point of that is that it is the submarine that is looking at you?—Yes.

The Commissioner: And if you are zig-zagging you confuse him and put him into difficulties?

The Attorney-General: How could you think that, because this is very clear: "War experience has shown that fast steamers can considerably reduce the chance of a successful submarine attack by zig-zagging"—nothing about when you see the submarine. You see, when you are torpedeed it is too late?—Of course it is.

Do not you see now that you really disobeyed a very important instruction?—(No answer.)

Mr. Butler Aspinall: Captain Turner, I want to ask you for a little more detailed information with regard to what you were doing and what you had in your mind. On the 6th May you told me you had a wire from Valentia that submarines had been seen off the South Coast of Ireland?—Yes.

Now, at this time we know that you were on your way from America to Liverpool, and am I right in saying that what you hoped to do was to get a land-fall somewhere on the Coast of Ireland?—Yes.

Was that the way in which you always navigated your ship?—Yes.

To get over these waters, and then in order to make good and ascertain your position, you want not only the knowledge that in a general way the Coast of Ireland is somewhere on your port bow or somewhere on your port side, but do you want to pick up a position on the coast which you know?—Yes, that is right.

And if you got that position, does it enable you then to be certain where your ship is on the waters of the coast?—Yes.

Now, was your wish on this occasion, if you could, to pick up the Fastnet?—Yes.

Had you not a course with the idea that you might pick up the Fastnet?—Yes, we might pick it up.

The Commissioner: He has not understood your question. (To the Witness.) Had you set your course in the hope that you would pick up the Fastnet?—Yes, my Lord.

Mr. Butler Aspinall: It is the point, as we know, which lies out here on the south-west end of Ireland (pointing to the chart)?—Yes.

Now, in truth and in fact, you never did see the Fastnet at all?—No.

So you did not get that information?—No.

That would have been useful information to you if you could have got it, would it not?—We saw Brow Head, or what we took to be Brow Head.

The Commissioner: Where is Brow Head with reference to the Fastnet?

Mr. Butler Aspinall: (To the Witness.) You must think before you answer the question. Will you point out where Brow Head is? Is that Brow Head (pointing to the Chart)?—Yes.

The Attorney-General: Is that after you had passed the Fastnet or not?

Mr. Butler Aspinall: That is before you had passed Brow Head?—Yes.

The Commissioner: That is five miles away?

Mr. Butler Aspinall: Yes, my Lord. It is more. It is 6½.

The Commissioner: 7 miles.

Mr. Butler Aspinall: Yes, 7 miles nearly. (To the Witness.) Now, I want to get your story in detail, so that we may have a consecutive story of what you were doing and what you had in your mind. You were wished to make the Fastnet, if possible, and you did not in fact do so?—No.

And you also told me that on this 6th May you had the wireless to the effect that submarines had been seen off the South Coast of Ireland?—Yes.

And had you also present this to your mind: that according to the Admiralty instructions the headlands were to be avoided?—Yes.

Now coming to the 7th, which was the day of the disaster, did you at 8 a.m. on that morning give orders that your speed was to be reduced to 18 knots?

—I gave orders for it to be reduced to 15 knots, but I cannot remember the time.

You suggested, I think, that it was somewhere in the neighbourhood of 8 a.m.—Yes.

The Commissioner: When did he suggest that?

Mr. Butler Aspinall: He says he gave the order somewhere in the neighbourhood of 8 a.m.

The Commissioner: When did he say that?

Mr. Butler Aspinall: He said it before, my Lord. Witness: I said we thought we would alter the speed.

Mr. Butler Aspinall: It was somewhere between the 8 and 12 watch, was it?—Yes, about that.

Now during that 8 to 12 watch did you have clear weather or did you have thick weather?—We had thick weather in the morning reducing the speed to 15 knots.

You had thick weather which was followed by a reduction of speed?—Yes, to 15 knots.

Now at the time that you got this thick weather and you reduced your speed, did you know with any certainty where your ship was?—No.

You mean that?—Yes, I mean it.

The Commissioner: Yes, but I do not understand it very well. He had seen this place which he took to be Brow Head?

Mr. Butler Aspinall: No, my Lord.

The Commissioner: He had seen it the day before?

Mr. Butler Aspinall: No. He was going to see it later, according to his evidence. I am so anxious to get from him if I can a consecutive story of what in fact was happening. (To the Witness): You had not seen Brow Head up to this time, had you?—No.

The Commissioner: Between 8 and 12 on the morning of the 7th, there came a fog?

Mr. Butler Aspinall: Yes.

The Commissioner: When was it that he saw what he took to be Brow Head?—(Witness): After the fog.

When was after the fog; was it before 12 o'clock?—It was before 12 o'clock, but I cannot quite rightly remember the times.

Mr. Butler Aspinall: We want it if you can tell us. Somewhere during this 8 to 12 watch, the fog having cleared, you saw Brow Head. Did you know for certain that it was Brow Head?—We did not know for certain that it was Brow Head; we thought it was. We saw a tower on the top of it.

The Commissioner: Is there a tower on Brow Head?—Yes.

Do you know of any other tower thereabouts?—Yes, there are several towers round about there.

Was this Brow Head that you saw?—I thought it was, but I could not absolutely verify my position. I assumed it was.

Mr. Butler Aspinall: Where was Brow Head from your ship when you saw it?—About the beam.

How much abaft your beam?—Probably a couple of points.

That would be on your port beam, of course?—Yes. How far off did you judge it to be?—About 25 miles or so.

That, of course, was your judgment?—Yes.

You had no opportunity of taking cross-bearings or 4-point bearings; it was simply your judgment?—Yes.

Now, at the time when you saw this thing, which you judged to be Brow Head, at the distance you thought it was, on what course were you then?—About S. 57 E., magnetic.

Now, that was the state of information you got at that time?—Yes.

If that is right, that at any rate would have told you that you had passed the Fastnet?—Yes.

Now, you told the Attorney-General before lunch that you got a second telegram by wireless. Let me read it to you: "Submarines active in the South part of Irish Channel and last heard of 30 miles South of Coningsby." Do you remember getting that telegram?—Yes.

And can you remember about what time it was that you got that telegram?—I cannot remember the time. It was somewhere about noon, I think.

The Attorney-General: The telegram was sent at 11.35.

The Commissioner: And it would arrive instantly. Mr. Butler Aspinall: Yes. (To the Witness): Would it be wrong, do you think, if I were to suggest to you that it was 11.30?—It may have been, but I do not

rightly remember the times; it may have been that time.

The Attorney-General: You see it can be fixed, because that was 11.25, and at 12.1 the Admiralty got a message from the "Valencia," which is on the paper: "Your 11.25 message has been transmitted to Lusitania."

The Commissioner: Are all these times we are talking about now Greenwich time? Are they all the same times, because if not there is an element of confusion?

The Attorney-General: There is 25 minutes difference in Irish time.

The Commissioner: You talk about Valencia time, Admiralty time and "Lusitania" time, and I want to know whether they are all the same or whether they differ?

Mr. Butler Aspinall (to the Witness): Tell me this: Did you make an alteration in your clock that morning?—If I remember rightly, it was put at Greenwich time, but I cannot say for certain as regards that.

The Commissioner: That is, before you sighted Brow Head?—Yes.

Mr. Butler Aspinall: Would that be the ordinary thing you would do?—That would be the ordinary thing we would do, not calling at Queenstown.

And, as far as your recollection serves you, you think you did, in fact?—I think I did.

Now, that telegram gave you this information, that the submarines, which had been reported here as being active, had been last heard of 30 miles South of Coningsby?—Yes.

Mr. Butler Aspinall: Now, my Lord, Coningsby, as your Lordship can see, is there (pointing to the plan). (To the Witness): That would put you out about there?—Yes.

The Commissioner: When did he receive that telegram that the submarines were there (pointing to the plan)?

Mr. Butler Aspinall: He gets the telegram at 11.30, or thereabouts, my Lord.

The Commissioner: How far off was he then from this point here?

Witness: About 35 miles.

That would be about two hours sail, would it not, at the rate you were going?—No, not quite so much.

Mr. Butler Aspinall: Very well. Now in order to get up to Liverpool, what you had got to do was, you had got to pass the channel between the Tinker and the Smally?—Yes, that is right. I forgot about that.

That is the distance between those two points; that is the channel that you had got to go between (pointing to the chart)?—Yes.

The channel seems to be about 35 miles?—Yes, that is right.

The information is that there is your channel, and the last report you got about the submarines is that they are off here, putting them, if I am right, about mid-channel?—Yes.

Now I will take you back, if I may, to 11.30. You have told us that when you saw what you thought was Brow Head, you were on a course of S. 57 E. 7?—Yes.

You had this fog and it cleared again?—Yes.

Some little time after that—you will tell me how long if you can—did you alter course and head in towards the land?—About 12 noon that was.

Mr. Butler Aspinall: At about noon, my Lord, Captain Turner says that he altered course to head in to the land. That is the alteration under star-board helm on this course in a line towards the land. On the chart that I have got here, I have got 12.40. He says in the neighbourhood of noon he altered course in towards the land.

The Attorney-General: Is that when he was 26 miles out?

Mr. Butler Aspinall: That is about 20 to 21 miles. (To the Witness): At this time, if your evidence is right, you had had information by wireless that in about mid-channel up here (pointing to the chart) were German submarines?—Yes.

Now you hauled in here for what purpose?—To get the distance off the land, to get a fix there.

You hauled in in order to get a fix?—Yes.

What is your object in getting a fix?—For getting the position of the ship, and then steering a course up to Coningsby.

You hauled in for that purpose in order to get a fix. If you effected that object, would that enable

you to determine with precision where your ship was?—Certainly.

Now, did you get a fix?—No, we did not have time. The Commissioner: Why not?—Because we were making a slight bearing when the disaster happened. We are talking now about 12 o'clock?—It is a little after 12 o'clock.

Mr. Butler Aspinall: He altered his course in order to get into the land so that he could see it. He had on, in fact, under the altered course brought himself, I understand, up to the place where he would get the information that would enable him to make a fix.

Witness: That is right.

Now, according to the chart which you have marked and which you said was accurately marked, having shared your course under the starboard helm, you had headed in somewhat but nothing like far enough to take you into mid-channel?—No.

And did you alter your course back to the course which you had been on before, S. 87 E.?—Yes.

Now what I want you to tell me is this: why it was, when you altered course, you did not alter out more so as to bring you up to mid-channel, but were heading up to the north of mid-channel?—Because I wanted, in the first place, to make Coneybeg, seeing that we were 20 miles south of it. Then I thought it was safer due to the land in case we did get a submarine.

You did not tell us that before?—I did not think of it.

Did you apply your mind to the situation on this occasion and make up your mind to steer a course which, if you had not been struck, would have taken you up close to Coneybeg?

The Commissioner: I think you are leading him rather too much, Mr. Aspinall.

Mr. Butler Aspinall: I am rather anxious to get at what was in his mind. (To the Witness): You must apply your mind, if you will, and do not answer questions hastily or hastily. Just think. You remember after you had altered back your course to S. 87 E.?—Yes. I cannot give the times—I cannot remember the times.

Now, if this trouble had never happened at all, how long would you have continued on that course of S. 87 E., on which you put her—up to what spot on the Irish Coast?—I could not have gone closer than within half a mile of Coneybeg Lightship.

The Commissioner: Is that lightship on the mainland?

Mr. Butler Aspinall: No, I think not, my Lord; it is just off it, on a shoal.

Witness: It is called "Coneybeg Lightship."

Now you told me that you intended, in fact, to take your ship close up to the Coneybeg; would that have been giving effect to the Admiralty letter of instructions to keep to mid-channel?—No, it would not.

Why did you, having a knowledge of what the Admiralty instructions were, steer a course which you had intended should take your ship so close to the Coneybeg and not out into mid-channel?—Because there was a submarine in mid-channel, as I understood it, and I wanted to keep clear of him.

Is that what weighed with you at the time?—Yes.

Did you give the matter consideration?—Certainly I did. That is what I am saying.

You see, this morning you were asked about this, and you did not tell us anything about it—I forget it.

The Attorney-General: Would you ask him what he understood by south of Coneybeg?

Mr. Butler Aspinall: The witness?

The Attorney-General (to the Witness): What is south on this map?—That is south, of course (pointing to the map); here is Magnetic South, and that is True South.

The Commissioner: What is the distance at this point you are talking about from mid-channel to the mainland?

Mr. Butler Aspinall: I take it, my Lord, that for the purpose of giving effect to this traffic which passes up and down between Liverpool and out to the Atlantic, the channel is really marked by those lightships on these various shoals and rocks. That is how the traffic goes (pointing to the chart). It is not the waterway over which a small boat can go, but the traffic passes up and down.

The Commissioner: Let us assume that. What is the width of the channel at this part (pointing to the chart)?

Mr. Butler Aspinall: At that part—the Coneybeg. The Commissioner: Yes. Is it 35 miles, or something like that?

Mr. Butler Aspinall: As I pointed out, between the Shoals and the Tinker, which is the neck of the bottle through which you go, it is about 35 miles.

The Commissioner: That is the channel?

Mr. Butler Aspinall: That is the navigable water which those vessels use.

The Commissioner: And this boat, going to Liverpool, had to pass through that channel, and she had no choice except passing through that channel.

Mr. Butler Aspinall: I should have thought not.

The Attorney-General: She had no choice; she must go through, but of course down where the old Kinsale Head is, it is a very different thing.

The Commissioner: Quite.

The Attorney-General: There is no doubt she had to go through the point of the Tinker.

The Commissioner: What I am upon at present is this. He had information that within about two hours said there were submarine—is not that so?

Mr. Butler Aspinall: Yes.

The Commissioner: He then had his choice, either to go out here, signing out there, or come on this route, and, if so, if he kept to mid-channel, he must have run foul of the submarine. He elected to go there.

Mr. Butler Aspinall: Yes. That is what was the outcome of his judgment in the situation.

The Commissioner: Yes.

Mr. Butler Aspinall (to the Witness): However, are those the facts which weighed with you in coming to a determination to do what you did?—Yes.

The Attorney-General: Are you going to deal with the wireless at 12.40?

Mr. Butler Aspinall: Yes, I am. (To the Witness): Now did you also have a wireless to this effect:

"Submarine 5 miles South of Cape Clear proceeding west when sighted at 10 a.m."?—Yes, I got that.

What would that tell you?—That we were a long way past them at the time we got it.

Where is Cape Clear?—It is by the Fastnet.

Mr. Butler Aspinall: My Lord, here is the Fastnet and here is Cape Clear in the immediate vicinity of the Fastnet (pointing to the chart). The red mark on the yellow ground is the Fastnet. Here is Cape Clear a little bit to the North-east of it. (To the Witness): So this telegram told you that a submarine had been sighted 5 miles South of that spot proceeding West this way (pointing to the chart)?—Yes.

When sighted at 10 a.m.?—Yes.

Did that submarine give you any further trouble in view of the information that it had been sighted in the neighbourhood of Cape Clear and going West?—No. I thought we were a long way clear of it; we were going away from it all the time.

So that so far as wireless information was concerned, what you had to not for and deal with were those submarine 20 miles south of Coneybeg?—That is right.

Then you have told me already what you intended to do?—Yes.

Now I want to direct your attention to another branch of the Admiralty instructions, namely, that you were to go zigzag. You received that instruction?—Yes.

And you know of it?—Yes, I know of it.

"War experience has shown that fast steamers can considerably reduce the chance of a successful surprise submarine attack by zigzagging—that is to say, altering course at short and irregular intervals, say, ten minutes to half an hour." Now, what did you understand that to mean?—I understood it to mean that if I saw a submarine, to get clear out of its way.

If you saw a submarine?—If one was in sight.

If one was in sight, you understood that that you were to zigzag?—Yes.

You may be wrong?—I may be wrong.

Was that your view of the language of the instruction?—I certainly understood it that way.

What has caused you to alter your view?—Because it has been read over to me again; it seems different language.

"This course is almost invariably adopted by warships when cruising in an area known to be infested

by submarines." Did you read through it?—Yes, I read it.

And knew it?—Yes.

And you put the interpretation upon it that you have told us?—Yes, that is right.

You now think you put a wrong interpretation upon it?—I am sure of it from the reading of it.

I read the word "instruction." My learned friend, Mr. Laking suggests that it is an advice. At any rate, you recognize that this was intended to be and was useful advice?—Yes.

Now I want you to deal with one other matter. You have told us this morning that if you had proceeded on at your rate of 18 knots, assuming weather conditions allowed of it (and I suppose you never know for certain whether you may make a fog or not) it would have meant that you would have arrived off the Bar at Liverpool some few hours before you could get in?—Yes, that is right.

If in fact you had arrived some few hours off the Bar before you could get in, in your view would that have been a prudent thing to have done, to have arrived at that early time?—I do not think so.

Why not?—Because I would be open to attack by submarines; I would be a good target for him—being stopped, waiting for a pilot.

Did you know whether or not submarines had been active off the Bar?—They had been previously; I did not know where they were.

Do you know the date?—No.

Then it was merely general knowledge you had, that submarines had been in those waters?—Yes, that is so.

The Commissioner: I am not satisfied about this. When did you get the information?—They had been pretty well all along there. I think it was the previous voyage.

From whom did you get the information. You do not remember when you got it. From whom did you get it?—We got Marconi Wireless that there were submarines off the Chirkens, off the Skerries, the Isle of Man and Point Lynas.

When did you get those wireless messages?—I think it was on the previous voyage.

The previous voyage in what boat?—The "Lamlia."

And what became of the log of that voyage?—It went down with the ship.

Did you make any report when you got to Liverpool that you had recovered those messages?—These Marconi signals are put down in the book and sent on to the office, I think.

Then you reported it to the office?—I did not personally, but the officers did.

The Commissioner: I should like to see it. At present I am not satisfied that he had any information at all that there were submarines lurking about outside the Bar of Liverpool; his answer does not satisfy me. I should have thought they had the log book of the last voyage.

Mr. Butler Aspinall: Yes, my Lord, they have.

The Commissioner: Have you seen it, Mr. Aspinall?

Mr. Butler Aspinall: No, my Lord, I have not seen it.

The Commissioner: Has Mr. Furness seen it?

Mr. Butler Aspinall: He has just gone into the next room for it.

The Commissioner: Has he ever heard of this bit of evidence till now?

Mr. Butler Aspinall: Oh, yes.

The Commissioner: Has he not tested it at all by looking at the log book?

Mr. Butler Aspinall: I do not know, my Lord. Here is Mr. Furness.

The Commissioner: Now, Mr. Furness, have you looked at this log?

Mr. Furness: No, not yet, my Lord.

The Commissioner: Has anybody looked at it?

Mr. Furness: The Board of Trade have a copy of it.

The Commissioner: Do you think you have got any record of any kind of these telegrams?

Mr. Furness: I should hardly think there would be a record in the log book.

The Commissioner: Where would they be kept?

Mr. Furness: The Marconi people would have a record of them.

The Commissioner: Have you got them here?

Mr. Furness: No, I have not got them. The Board of Trade may have them.

Mr. Butler Aspinall: May I ask Mr. Furness a question?—Certainly.

Mr. Butler Aspinall (to Mr. Furness): You supplied me and Mr. Laking with a list of the vessels that had been torpedoed?

Mr. Furness: Yes.

Mr. Butler Aspinall: I do not know where you got that information from.

Mr. Furness: I got the information from the War Risk Association.

The Commissioner: That is another matter altogether. What I want to know at present is, whether this gentleman who is being examined really did know or had information that there had been submarines outside the Bar at Liverpool during his previous voyage?

Witness: No, my Lord.

I thought you said you had?—I mean, I would have heard of them if they had been there.

Mr. Butler Aspinall: Do you understand what my Lord is asking you?—Yes.

What is he asking you?—He is asking me if I had seen submarines on the previous voyage.

The Commissioner: Oh, no. I asked you if you had heard of them being outside the Bar at Liverpool. Did you hear that during your previous voyage?—I could not recollect what time it was, but I know I heard of them having been there.

It is not 12 months ago, I suppose?—No, it was not that long.

The Commissioner: You see these answers are worth nothing when you test them. They are not worth much, any way.

Mr. Butler Aspinall: No, my Lord. (To the Witness): Now, do you know any instance of specific ships which have met with disaster from torpedoes outside the Bar?—When I say outside the Bar, I mean between the Skerries and Liverpool. I have heard of them being there; one or two small vessels; I do not know when it was; it was some time back.

The Commissioner: It comes to nothing. There is not a link in your chain, Mr. Aspinall.

Witness: I have heard of their having been reported off the Chirkens and the Isle of Man.

Mr. Butler Aspinall: This is quite another point.

The Commissioner: It is.

Mr. Butler Aspinall (to the Witness): Are you willing to go through your voyage as quickly as you can?—With due regard to the safety of the ship and the welfare of the passengers, certainly.

Could you have, in fact, if you had liked, driven your vessel at 21 knots?—Yes.

What weighed with you in going on at 18 knots?—So as to enable me to arrive at the Bar, so that I could go over the Bar at once, without stopping for a pilot.

What the Court wants to ascertain is whether what weighed with you was the fact that you had knowledge that there might be submarines in the vicinity of what we have called the Bar, which would expose your ship to danger if she arrived there too soon and had to wait?—Yes, that is what I mean.

Are you honest in making that statement?—Quite honest. I did not want to wait. I wanted to get right ahead without stopping for a pilot.

As you say, although you cannot give us any detail, you had information of a general character, to the effect that submarines had been in these waters.—Not on that particular voyage.

The Commissioner: At present I do not believe that.

Mr. Butler Aspinall: However, my Lord, that is what he says.

The Commissioner: I know that is what he says, but I do not believe it at present. I want to find out if it is right.

Mr. Butler Aspinall: My learned friend Mr. Maxwell has been looking at the log book of the previous voyage, and he says there is nothing in it about it.

The Commissioner: I understand the gentleman says it would not have been in the log book, and I accept what he says, but surely it would be in the log book, and if so, would be contaminated as a matter of course to the Cunard Company's office.

Mr. Butler Aspinall: Yes, I have no doubt of it, my Lord. Those people who instruct me thought we should not have reached this stage of the case so early as we have, but we will make enquiry at Liverpool.

The Commissioner: You shall have plenty of opportunity

Mr. Butler Aspinall: If your Lordship please. (To the witness): Near the third feature of the case that I want you to deal with is this. The suggestion was made that you might, and possibly ought, instead of going on, to have made circles or turned out to seaward here (pointing to the chart).

The Commissioner: Who made that suggestion?

Mr. Butler Aspinall: I thought Sir Edward Carson made that suggestion,—that instead of going on, he might (that was the alternative) have stood out and covered the time which he said otherwise he would have had to me lying out.

The Commissioner: I understood him to mean to continue the time by zigzagging.

Mr. Butler Aspinall: If so, I will not proceed with the other point.

The Solicitor-General: I think what the Attorney-General suggested, and certainly I should suggest myself, would be that either alternative was open to the witness. One was the course he apparently adopted; one was to go in the direction of Coningbeg. The other was that he should have stood out, in the phrase used by Mr. Aspinall, partly in order to consume the time until he should have to go in another direction; and that there was still a third course that might have been adopted, that he should have zigzagged somewhat.

The Commissioner: Yes, that is what I understood.

Re-examined by the Solicitor-General.

I have very little to ask you, Captain. If I understand your answer with reference to the zigzagging, it is this. You have told us very frankly that you misunderstood the advice which was given you?—Yes.

If you had realised that you were in substance advised to adopt the course of zigzagging, not in an area in which you actually saw submarines, but in an area which was known to be infested by submarines, am I right in supposing that you would have acted upon that advice?—Yes, I would have done.

I ask you to consider this: Would you have acted upon it when you found yourself, in your view, 15 miles, or in the view I am suggesting to you, ten miles from the Head of Kinsale?—No; if I did not think there were submarines round there, I should not.

But you see it was a headland, it fell well within the general and particular warnings that had been given you, did it not?—I did not consider so.

It was your view that the 10 or the 15 miles, at the point where the waterway was so broad, carried you beyond the warning that had been given to you by the Admiralty?—Yes, that is what I think.

Now your position was this, was it not: you found yourself either 10 or 15 miles from the Old Head of Kinsale, and you had a certain amount of time to consume before you reached the Bar at Liverpool?—Yes.

And it would have been possible for you to go at the rate of 21 knots an hour and go straight for the Bar?—Yes.

For the moment I leave out of sight the possible risks at the Bar, and I just take your answer. It would obviously have been much safer, would it not, to have gone at the faster speed in order to reach the Bar, subject to the possible risk of a hostile submarine when you reached the Bar and were waiting?—Yes.

And you are not able to tell us with any definiteness of the last casualty of which you had heard in the proximity of the Bar?—No.

The Commissioner: I do not know that he told us any.

The Solicitor-General: I know there was one.

The Commissioner: Can you tell me what it was?

The Solicitor-General: It was a ship which was called the "Prinzess," and I am pretty sure it was about 10 weeks before. Your Lordship shall know to-morrow.

The Commissioner: Was there any other?

The Solicitor-General: I only know of one, my Lord.

Witness: The "Graphie" was chased.

The Solicitor-General: However, you cannot tell me with any degree of exactness when any casualty occurred in the neighbourhood of the Bar?—No.

It is quite obvious that you would have been safer going at 21 knots than at 15 knots, of course?—I might have been, I daresay; I do not know.

On the course that you followed until you reached the point which is referred to in the Admiralty communication as 21 miles south of Coningbeg, what was the furthest point in the course that you followed

from the shore until you reached the channel near Coningbeg?—I do not quite understand the question. You mean you were 10 or 15 miles at the Old Head of Kinsale?—Yes.

Then you reached Coningbeg?—Yes; the land goes in all the time there (pointing to the chart). I did not get beyond Kinsale.

Supposing you had followed the course you were contemplating?

The Commissioner: That, Mr. Solicitor, which you are pointing out, was not the course.

The Solicitor-General: This is his ordinary course (pointing to the chart).

The Commissioner: That is his ordinary course.

The Solicitor-General: Supposing that the accident had not happened here, you would have gone in that kind of direction?—If the accident had not happened we would have gone up the head.

The Commissioner: Where is this Coningbeg?—It is here (pointing to the chart).

Then if you were making for that, you would have come up in this direction?

The Solicitor-General: What do you say to that?—I was making for it. But I understood you asked me in ordinary cases.

I did not mean to ask that. What I meant to ask you was, that finding yourself where you did on this voyage, find yourself, if the accident had not happened, what course would you have followed to have got to Coningbeg?—I would have taken that course (pointing to the chart).

And how far would the furthest point from the land have been, roughly, on that course?—This would be the furthest point, here.

So that of this point it would have been 16½ miles?

—Yes. You mean if we had followed this course here?

Yes.—Then it would not have been much farther.

It would have been at the furthest point about 28 miles?—Yes.

The Commissioner: I am not following it. What does the 20 miles mean?

The Solicitor-General: It is 28, my Lord. What I wanted to arrive at was this. Supposing the accident had not happened, and he had gone straight on to get to Coningbeg, the furthest point from the land that his course would have brought him to would have been some 28 miles.

The Commissioner: That would have been about his course?

Witness: Yes.

Where is the 28 miles here?—I do not understand you.

The Solicitor-General: The witness is wrong in saying 28. It is not much more than 15. (To the witness). I want to know the course that on this voyage, having regard to the position in which you were at the time of the accident, you would have followed to get to Coningbeg, if the accident had not happened? (The witness marked the course upon the chart). It is about 16 miles, is it not?—It is 16½ miles.

Now, having the whole of this sea open to you, and having plenty of time to spare, is it not quite obvious that you did not follow in any way the instruction given to you by the Admiralty on the 7th of May, that the submarine area should be avoided by coming well off the land?

The Commissioner: Mr. Solicitor, what I have got my mind on at present is this. This man wanting to make a course of that kind, if he is telling us the truth, that he knew and had reason to believe that there were submarines somewhere about here or here, must have been very wise to make that course.

The Solicitor-General: I agree. If I may tell your Lordship the suggestion I am making, it is this: that having regard to the second telegram of the 7th of May, that in the south part of the Irish Sea, 30 miles south of Coningbeg, submarines were active, and having regard to the fact that the width, taking the point of Coningbeg, was south about 35 miles, I think he was justified in not obeying any pedantic instructions that he should adhere to mid-channel at that point.

The Commissioner: Yes, he was not going to run right into the submarines.

The Solicitor-General: Quite. The suggestion I do make is that having this time to spare he ought not to have gone on to this course, but ought to have put out.

The Commissioner: That is another matter altogether. If the man means that—goodness knows, I

do not; but if he means this: I knew that there were submarines hereabouts; I had to get through that channel (pointing to the chart), and he thought the best means of getting through that channel was to steer for Chasing-up in this direction—that is what I understood him to mean?

Witness: That is right, my Lord.

The Solicitor-General: My Lord, to avoid any confusion, there is no question that at some point in his journey he had to get through that channel.

The Commissioner: Yes, I understand that, but what you say is that he had no occasion to go through there; he might have kept away.

The Solicitor-General: Yes quite so. He had a great deal of time to spare, and he could either have done his signalling and spent his time there, or he could have gone through here and got to the Bar.

Mr. Butler Aspinall: Might I ask the Captain one question?

The Commissioner: Certainly.

Mr. Butler Aspinall (to the Witness): While you were being asked about your knowledge of submarines off the Bar you suddenly blurted out this, you said:

"Oh, yes, there was a ship chased off there." What information did you mean to convey to us by that statement?—The "Graphic," a Belfast boat, was chased by a German submarine.

Who told you that?—I saw it in the papers.

When?—I could not tell you that; I forgot it; it is some time back.

The Commissioner: He cannot recollect it, but we can find it out.

Mr. Butler Aspinall: Yes, my Lord. (To the *Witness*.) You say you read it in the newspapers?—Yes, on several occasions I have read it.

Now, the Solicitor-General spoke of a vessel; I think he called it the "Princess." Do you remember the Solicitor-General about a quarter of an hour ago mentioning a vessel called the "Princess" being torpedoed about ten weeks before this accident?—Yes.

Did that come as news to you when the Solicitor-General spoke of it?—Yes. I had not heard the name. I had heard of two or three vessels being torpedoed off round about that coast. When I do not know, but since the war certainly.

The Solicitor-General: May I ask one thing, my Lord, which has been suggested to me?

The Commissioner: Certainly.

The Solicitor-General (to the Witness): If you had consumed some time in making a wider course here, you would have been able to make your rush in the dark through the dangerous part, would you not?—Yes, and probably found more submarines while I was doing it.

You might have signalled, and so forth.

The Commissioner: I do not understand that answer. What do you mean by saying that if you went in the dark you would probably have met with more submarines?—If I went round and round wasting time.

The Solicitor-General: All your warnings were that the submarines were near the land, so that if you went out near into mid-channel you had no reason to suppose that there were more submarines there?—No.

The Commissioner: What made you give an answer of that kind? I do not understand it at all. When you go out far away from the land, do you expect to meet more submarines than when you are close to the headlands?—I expect to find them any distance within 100 miles or so off the land in these times.

I understood you just now to say that the further you go out, the more submarines you expect to meet, which seems to me to be odd?—No. What I meant to say was that by going out further round and wasting time I might have met others.

The Commissioner: I should have thought it was getting into safety to get away from the land. Will you tell me, so that I may have it in my mind, Mr. Aspinall, what you understood this gentleman to have wished to convey to us?

Mr. Butler Aspinall: What I understood him to have wished to convey to your Lordship is this: that coming over from America, he wants to make a head-fall, and I am told that good navigation always do, because when he gets over in the neighbourhood of Ireland, from that time onwards he is in narrow waters and in places where there are rocks and shoals,

and in places where you from time to time meet with fog; in fact, he did meet with some fog. Therefore it is highly important that you should have a landfall which will give you your exact position on the water. In a general way he shaped his course so as to make for the Fastnet; he did not get to the Fastnet. When in fact he passed the Fastnet, he saw something which was behind the Fastnet in the neighbourhood of Brow Head, or which he assumed to be Brow Head, but he was not absolutely certain it was Brow Head; it probably was. Under those circumstances he says to himself: "Well, now, I want to ascertain exactly where I am," and for that purpose he bends in in order to get a sight of land, a sight of Kinsale. He has also got at about 11.30 information that in the neighbourhood of this channel through which he will have to pass, or rather, in about the centre of it, between the Tuskar and the Smalls, are German submarines, a likely place probably for German submarines to be lying in waiting, not only for the "Lusitania," but for all traffic going up and down. With that knowledge in his mind, after he has landed in a bit, he looks out a bit again on to his S. 87 E. course, and is in course of getting a fix which, if carried out, would have given him accurate information and precise information as to where he was. He is watched at this point of time to avoid the centre of the channel, and to steer a course which will take him into close proximity of Coasting-bag. In order to effect that object he wants to get a precise point of departure. The result of getting a fix would give him that knowledge, which would enable him then to steer a course appropriate to taking him in the immediate proximity of the Coasting-bag, and whilst the officers on the bridge are in process of acquiring that information, which would enable him to avoid the centre of this channel, the submarine operates, and the ship is lost. That is what I understand he is wishing to convey to your Lordship, and these are what I understand were the instructions given me by Messrs. Hill, Dickinson and Company. What happened with regard to this matter is this: that the Board of Trade, after this gentleman had in a general way given a statement to the Board of Trade, wrote a letter to Messrs. Hill, Dickinson asking them for certain information which they could get from Captain Turner with regard to clearing up certain points. Messrs. Hill, Dickinson asked this gentleman to make a proof dealing with these particular points, and he did give us that proof.

The Commissioner: Made a proof?

Mr. Butler Aspinall: I am afraid I was wrong in saying that. He did not make the statement in the fullness that I have just made it to your Lordship, but I certainly understood the statement as given me about it.

The Commissioner: Where is the statement?

Mr. Butler Aspinall: I have got it. I thought your Lordship might like to see it. We sent it in fact to the Board of Trade.

(The statement was handed in.)

The Commissioner: "With respect to the course steered:—From Latitude 40 degrees 10 N. and Longitude 49 W., the "Lusitania" was navigated on a great circle towards Fastnet and when approaching Ireland made a course to pass 20 miles off Fastnet. Ireland was sighted at about 12.10 p.m. on the 7th May when Brow Head bore about 2 points abaft the beam. The "Lusitania" was then about 30 miles distant from Brow Head. Fastnet was not visible, the weather being clear." Does that mean it was too clear or what?

Witness: It means that the Fastnet was too far off to see it. Although the weather was so clear, the Fastnet was so far off you could not see it; the weather was remarkably clear.

The Solicitor-General: It means although the weather was clear.

The Commissioner: Does it mean although the weather was clear?

Witness: Yes, that is so.

The Commissioner: "The course then and for some time previously steered was S. 87 E. Magnetic, so that Fastnet when sighted was about 30 miles distant. The weather which had earlier in the day been misty cleared between 11 o'clock and noon. The ship's speed was 18 knots. There was a light breeze and a smooth sea. The course S. 87 E. was steered because it was a safe and proper course when inward bound off

the Irish Coast, particularly in view of the Admiralty instructions." What is the meaning of "particularly in view of the Admiralty instructions?" Is it correct to say that it has been disregarding the Admiralty instructions?

Mr. Butler Aspinall: I am not sure. I think that refers to the letter which the Board of Trade sent to Messrs. Hill Dickinson, asking him whether he was steering proper courses, and his view was that he was.

The Solicitor-General: That does not answer my Lord's question. My Lord asked, what is the meaning of "particularly in view of the Admiralty instructions?"

The Commissioner: Do Messrs. Hill Dickinson know what it means?

Mr. Butler Aspinall: Yes.

The Commissioner: Then come and explain it to us.

Mr. Forster: It was because of the distance off the land.

Mr. Butler Aspinall: He is further away than he is under normal circumstances, some 20 miles. The new mark takes him quite close to Fastnet.

The Commissioner: "This course of S. 87 E. was maintained until 12.40 p.m., when Galley Head was sighted a long distance off on the port bow. On the evening of May 6th I received a wireless advising that enemy submarines were active off the south coast of Ireland and containing the usual warning to avoid headlands. On the morning of the 7th May, at about 11.30, a further wireless message was received which reported submarines in the southern part of the Irish Channel, and last heard of 20 miles south of Coringbeg Light Vessel. I then decided to pass close to Coringbeg, and at 12.40 p.m., after Galley Head was sighted on the port bow, I altered course gradually 30 degrees more to the northward to N. 63 E. magnetic. At 1.40 p.m. the Old Head of Kinsale was then in sight on the port bow, and I altered course back to S. 87 E. Magnetic." That is where he makes his last course?

Mr. Butler Aspinall: Yes.

The Commissioner: "It was my intention to get a 4-point bearing of the Old Head of Kinsale and then to alter course to pass close to Coringbeg Light Vessel, leaving it about half a mile on the port bow. I received a further wireless message shortly before 1 p.m. to the effect that submarines had been reported off Cape Clear proceeding West, and I concluded we had escaped them." That is all about it.

The Solicitor-General: The only other thing is on the next page, where he talks about the Bar at Liverpool. It is on the next page, about 14 lines down. "The speed had been reduced, otherwise the 'Lusitania' would have arrived off the Bar at Liverpool." That is all.

The Commissioner: I will try and find out what it means. Now, have you finished with this witness?

The Solicitor-General: Yes, my Lord, I have finished with Captain Turner, and there is not, as far as the Board of Trade is concerned, with the possible exception of the evidence which may be given by Mr. Booth, the Chairman of the Concord Company, any other witness who need be taken in evidence.

The Commissioner: Is Mr. Booth here?

Friday, 18th June, 1915.

The Commissioner: Now, Mr. Aspinall, I have had a great deal of difficulty with the Captain. Read me the form of question put to us about the Captain. It is the last, I think?

Mr. Butler Aspinall: Yes, my Lord.

The Commissioner: The question is: "Was the loss of the 'Lusitania' and/or the loss of life caused by the wrongful act or default of the master of the 'Lusitania' or does any blame attach to him for such loss?" And then Question 3 is: "Were any instructions received by the Master of the 'Lusitania' from the Owners or the Admiralty before or during the voyage from New York as to the navigation or management of the vessel on the voyage in question? Did the Master carry out such instructions?" These are the two questions which trouble me.

Mr. Butler Aspinall: If your Lordship please. At the outset of my remarks on behalf of the Captain what I want to emphasise, and I think it is a material matter, is this, that the Captain was, un-

der the *Schirmer-Greaser*. Unfortunately, he is not. He is a witness who must take some time, and I think he will be here first thing to-morrow morning.

The Commissioner: Then we will take him first thing in the morning.

The Solicitor-General: If your Lordship please.

The Commissioner (To the witness): I should very much like you, Captain Turner, to take a pencil and this chart and show me what this statement of yours means. At 12.10 you were, according to this statement, about 20 miles from Brow Head. Now, show me where you were—About here (Pointing to the chart).

What is this line down here that you pointed to?—That is the line that we came by.

You were down there, 20 miles distant from Brow Head; the Fastnet was not visible. "The course then and for some time previously was S. 87 E. Magnetic."—Yes.

And that had been your course for some time? "So that Fastnet when absent was about 20 miles distant."—Yes.

Is that so?—Yes, that is perfectly right.

"The weather which had earlier in the day been misty cleared between 11 o'clock and noon. The ship's speed was 18 knots. There was a light breeze and a smooth sea. The course S. 87 E. was steered." I do not find that. Is this the course?—Yes that is it.

What is it?—N. 63 E. Magnetic.

"Because it was a safe and proper course when inward bound off the Irish Coast, particularly in view of the Admiralty instructions. This course of S. 87 E. was maintained until 12.40 p.m. when Galley Head was sighted a long distance off on the port bow. On the evening of May 6th I received a wireless advising that enemy submarines were active off the South coast of Ireland and containing the usual warning to avoid headlands. On the morning of the 7th May about 11.30 a further wireless message was received which reported submarines in the southern part of the Irish Channel and last heard of 20 miles south of Coringbeg Light Vessel. I then decided to pass close to Coringbeg and at 12.40 p.m. after Galley Head was sighted on the port bow I altered course gradually 30 degrees"—where did you alter the course?—From there to there (pointing to the chart).

Is this the alteration?—That is the alteration—30 degrees.

More to the Northward to N. 63 E. Magnetic. At 1.40 p.m. the Old Head of Kinsale was then in sight on the port bow and I altered course back"—you altered the course back to what?—To S. 87 E.

The same as it was?—Yes.

And where were you torpedoed?—That is the place there S. 85 W. and 51.25 N. approximately.

Why did you change your course here?—Because we made out the Galley Head, and then we wanted to get the 4-point bearing to get a fix at Kinsale while we were far enough off the land.

You wanted to keep the north side of the channel? Yes, I heard of submarines being south of Coringbeg.

The Witness withdrew.

Adjourned to to-morrow at 10.30 o'clock.

doubtedly, a bad witness, although he may be a very excellent navigator.

The Commissioner: No, he was not a bad witness.

Mr. Butler Aspinall: Well, he was confused, my Lord.

The Commissioner: In my opinion at present he may have been a bad Master during that voyage, but I think he was telling the truth.

Mr. Butler Aspinall: Yes.

The Commissioner: And I think he is a truthful witness. I think he means to tell the truth.

Mr. Butler Aspinall: Yes.

The Commissioner: In that sense he did not make a bad witness.

Mr. Butler Aspinall: No.

The Commissioner: He made a bad witness for you.

Mr. Butler Aspinall: Well, what I was going to say about him was this, that it was very difficult to get a consecutive story from the man, but I was going to submit that he was an honest man.

The Commissioner: I think he is, and I do not think Sir Edward Carson or Sir Frederick Smith have suggested anything to the contrary.

The Solicitor-General: No, my Lord.

The Commissioner: The impression the man has made upon me is—I came here prepared to consider his evidence very carefully, but the impression he has made upon me is that he was quite straight and honest.

Mr. Butler Aspinall: Quite. He had gone through naturally the very greatest strain both physical and mental. He lost his ship; he lost his comrades, or many of them; there was very great loss of life, and he was in the water for a very long period of time.

My Lord, with submission, I think that we have a complete answer to any suggestion of imputing the navigation and the management of the ship during the period of time that she was in this War Zone, and my submission to your Lordship is that in order to determine the question whether or not the Master was to blame, it is very important that one should have a consecutive account of the events which were happening on the 6th and 7th of May.

My Lord, the state of things, as I gather it from the evidence, is this, that on May 6th the vessel is approaching the War Zone, and under these circumstances the life boats are swung out and orders are given that the ports should be closed and that the bulkhead water-tight doors should also be closed, and further, that the look-out should be decided. Now, that is the conduct of a man who is appreciating the gravity of the situation, namely, that he is in command of a large vessel carrying a large number of passengers, and he has got to apply his mind so far as he can to ensure carrying these people to Liverpool in safety by the action which he takes on the day in question.

Then on this same day he receives two telegrams that were put to him by my learned friend Sir Edward Carson. One was a wireless message received from Valentia, to this effect: "Submarines have been seen off the South Coast of Ireland. Headlands to be avoided and harbours passed at full speed." It is to be noticed, if I may emphasize the point—and I have a reason for doing so—that when he is told that submarines have been seen, it is off the South Coast of Ireland—I emphasize the fact that they were off the South Coast.

My Lord, in addition to that, he also received a further telegram, which is to be found at page 8 of the evidence which was given in camera: "Take Liverpool pilot at Bar and avoid headlands. Pass harbours at full-speed; steer mid-channel course. Submarines at Fastnet."

The Commissioner: That means just outside the Liverpool Bar.

Mr. Butler Aspinall: Yes, my Lord. "Avoid headlands. Pass harbours at full speed; steer mid-channel course. Submarines at Fastnet." Now that was the state of information that he got on May 6th.

The Commissioner: Where did this second wireless come from?

Mr. Butler Aspinall: Sir Edward Carson did not tell us that. It was a question put at page 7 when Sir Edward Carson was examining the witness. "I suppose it came from Valentia, did it? (A) I presume so."

The Commissioner: It was a general telegram, apparently; not to the "Lutimnia" alone, but to all British vessels. "Take Liverpool pilot at Bar and avoid headlands. Steer mid-channel course. Submarines at Fastnet."

Mr. Butler Aspinall: Yes.

The Commissioner: Could you tell me how that would be sent out?

Admiral Ingfield: It would be sent out from Crookhaven. It is a Post Office wireless station, but all the wireless stations are taken over by the Admiralty, and no message can be sent out without their permission. I might add that all the wireless stations now under Admiralty orders maintain Greenwich time.

Mr. Butler Aspinall: My Lord, passing away from the 6th and the 7th, what was happening so far as is material on this occasion, is as follows, that somewhere during the 8 to 12 a.m. watch—nowhere 8 than 12—the Captain ordered the speed to be reduced to 18 knots. I will deal with the propriety of his action later.

The Commissioner: About 8 a.m., you say?

Mr. Butler Aspinall: I cannot fix the time with precision, but it is between 8 and 12; it is nearer 8 than 12.

The Commissioner: You are not referring to the 15 knots?

Mr. Butler Aspinall: No. Shortly after that there was fog, and then there was a further reduction of speed to 15 knots, and soundings were taken. Your Lordship will be advised with regard to this, but I am told that this is the place where fog is met, and that again, I submit, is evidence of careful navigation, the reduction of speed and also taking soundings. It is a matter which the Board of Trade always emphasize very, very much, and very properly, when you are in thick weather in the neighbourhood of land.

The Commissioner: Could you tell me what view you take about the importance of the Admiralty orders? If the Admiralty order is to go forth, is the Captain supposed to qualify that what there comes a fog? Is he supposed to disregard the Admiralty order?

Mr. Butler Aspinall: Well, my Lord, I will deal with it now, but if I might I should much prefer to go on with the sequence of events, if your Lordship will bear with me.

The Commissioner: Do, please.

Mr. Butler Aspinall: Then the fog clears away somewhere before 12, and the vessel then goes on at 18 knots, and during the same 8 to 12 watch, the clocks are put on 50 minutes, and the time of the ship synchronizes with the time at Greenwich. At 11.30 comes the important wireless message with regard to submarines being heard off south of Coningbeg. That is the telegram which your Lordship has got, to the effect that submarines were last heard of 20 miles north of Coningbeg. The vessel at that time is on a course of S. 87 E. At 12.10 those on board the ship, not having seen the Fastnet, see what they thought was Brown Head 2 points abaft the starboard beam. It was a guess; probably a correct guess, but at the best a guess; and, of course, in addition to that, it was a mere judgment at the best of the distance from Brown Head. At 12.40 p.m. they got a bearing of Galley Head, and about this time they heeled in about 30 degrees to the northward, the course being N. 63 E. (I will deal, of course, later with the propriety of that action), the intention being to get a fix at the Old Head of Kinsale, and so enable them to pass close to Coningbeg and thereby keep away from this position 20 miles south of Coningbeg.

At 1 p.m. they got a wireless to the effect that submarines had been sighted off Cape Clear; that is in the neighbourhood of Fastnet; and about 30 a.m., heading to the westward.

The Commissioner: Is that according to your idea of the telegram, Sir Frederick?

The Solicitor-General: No, my Lord, I do not think it is.

Mr. Butler Aspinall: In order to exhaust the telegrams, my Lord, I merely called the attention of the Court to it. Then at 1.40 the course is altered back to S. 87 E., and the Old Head of Kinsale is then in sight and recognised and known to be the Old Head of Kinsale. From 12 to 4, your Lordship may remember, was the watch of Mr. Jones, the Chief Officer. He was relieved at 1.40, and left on the bridge a gentleman of the name of Boring, who was called yesterday—Hafford and Boring. Hafford was the Second Officer; he was drowned.

Admiral Ingfield: The Second Officer would be in charge, not that young officer. Under the Board of Trade Regulations they are bound to have a Second Officer. He was drowned, I think?

Mr. Butler Aspinall: Yes. The reason I was calling your Lordship's attention to the fact that Boring was there is that he was doing something.

The Commissioner: Boring is alive; Hafford not.

Mr. Butler Aspinall: That is so, my Lord. Boring began to take a four-point bearing, and he tells us that at 1.50 the Old Head of Kinsale was then 4 points on the port bow, and he then began to take a 4-point bearing, in order to ascertain the distance they were from the land, but I suppose, roughly speaking, it would take them probably something in the neighbourhood of half-an-hour or twenty minutes to complete before they got the Old Head of Kinsale abeam. It was an isosceles triangle. Still, it is a process that

cannot be done in a moment. I mean to say, roughly speaking, it would take about half-an-hour. Messing was relieved at 2 p.m. whilst he was in the process of this operation. He was relieved by Mr. Stephens, one of the officers who, unfortunately, was also drowned, and before the operation was completed, unfortunately, the vessel was struck. My Lord, I think that is the statement of what I may call all the material facts which were happening on the 6th and on the 7th of May.

My Lord, having dealt with that, now I next go to the Admiralty instructions and the Admiralty recommendations, and deal with them as they were presented by Sir Edward Channon to the witness. At page 3 of the note of the evidence which was given on the second day of the trial in this room, the first instruction that was put to the Captain was this: "All orders by British men-of-war must be complied with immediately."—(A) Yes. (Q) Now listen to this: "When on voyage vessels must scatter widely both sides of the track and should avoid all other vessels directly they or their smoke are sighted. Points where trade courages should, when possible, be passed through at night. Territorial waters should be used when possible. Remember that the enemy will never operate in sight of land if he can possibly avoid it." Did you get that?—(A) Yes.

Admiral Jellicoe: That order applies more specially to the early operations of these cruises.

Mr. Butler Aspinall: Yes. I think one may neglect that. Then the next is: "Every effort is to be made to avoid capture and to cause the enemy to burn coal." That again applies to the early stages. Then at the bottom of page 3: "Did you get this one; this is a telegram on the 20th January to Sir Norman Hall, the solicitor to the Company, from the Admiralty: 'Confidential' (it is dated 13th January, 1915): 'British Shipping should be advised to keep a sharp lookout for submarines and display signs of neutral country, or show no colours while anywhere in the vicinity of the British Islands. British ensign must, however, be displayed when British or Allied men-of-war should be met. Home flags should not be flown.'—(A) I remember getting that." I think I may dismiss that. In the middle of the page there is this question: "Did you get a copy of this, which is dated 10th February?"

The Commissioner: This is important.

Mr. Butler Aspinall: Yes. "This paper is for the master's personal information and is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice. Instructions for Owners and Masters of British Merchant ships issued with reference to the operations of German submarines against British shipping." Did you get that one? (A) I do not remember that one. He did receive it later on. "Section 3. Vessels approaching or leaving British or French ports between latitude 48 degrees N. and latitude 63 degrees N. and east of longitude 13 degrees W. a sharp look out should be kept for submarines and vessels navigating in this area should have their boats turned out fully provisioned and ready for lowering. The danger is greatest in the vicinity of the ports and off the prominent headlands on the coast. Important landfalls in this area should be made after dark whenever possible." I believe I am right in saying that at this time there were only six hours of darkness, and in view of the fact that there is a continuity of land, it is apparently unreasonable.

The Commissioner: On the 19th February?

Mr. Butler Aspinall: No, my Lord, on the 7th May.

Admiral Jellicoe: On the 7th May the sun rose at 4.24 and set at 7.30 roughly in that latitude.

Mr. Butler Aspinall: Yes. Now, my Lord, my submission is that he did not contravene that.

The Commissioner: No, he did not.

Mr. Butler Aspinall: Now, first of all, he is instructed that he is to have his boats turned out and fully provisioned. That he did. "The danger." It says "a greatest in the vicinity of the ports and off the prominent headlands on the coast." The Captain recognised that, and was not in any way contravening either the spirit or the letter of this in doing what he did. He was, as I suggested to your Lordship the other day, dealing with the navigation of the ship in this way. In view of the fact that at 11.50 he had

a wireless telegram informing him that submarines had been seen 20 miles south of Coneybeg, he having applied his mind to this matter and having consulted the Staff Commander and his First Officer, said: "Now what I propose to do is to keep away from that position, 30 miles south of Coneybeg."

The Commissioner: Let me see the chart. Is this Coneybeg (pointing to the chart)?

Mr. Butler Aspinall: That is Coneybeg there, my Lord.

The Commissioner: And there is the channel that he had to go through.

Mr. Butler Aspinall: The Tinker and the Smalls is the actual channel.

The Commissioner: Now he has got word that there are submarines 20 miles to the south.

Mr. Butler Aspinall: Yes, in or about the neighbourhood of Coneybeg. Now, my Lord, in doing what he did, my submission is that there was no reckless disregard of this instruction. He discussed the matter; he had present to his mind that the main thing was to avoid submarines, and he had got general instructions, no doubt of very great value, which probably would give effect to that purpose, namely, avoiding submarines, but he had got specific knowledge that when last seen the submarine danger was out in about the neighbourhood of mid-channel and under these circumstances he acted to himself: What I will do will be, in view of my specific instructions, although I fully recognise the utility of the general instructions, in the circumstances of this case, in order to avoid that danger, he made up his mind to go close to Coneybeg. My submission is that that was a proper judgment in view of what he had been told.

The Commissioner: This chart has not got his actual course marked upon it.

Mr. Butler Aspinall: Yes it has, my Lord. It is very difficult to see, but it is there.

The Commissioner: Where is it?

(The course was pointed out.)

Mr. Butler Aspinall: I do not think this large chart shows the Tinker, and that was the utility, I thought, of the smaller one. I thought the utility of this chart was that you get a sight of the whole scene of operations; and before the course was altered at 12.45, information was received that the danger was that there were submarines 20 miles south of Coneybeg, and rightly or wrongly, a determination on the part of the Master, after thinking the matter over, to get his position by a fix, and then make a course which would take him close to the Coneybeg.

The Commissioner: Am I to understand that he intended to change his course again?

Mr. Butler Aspinall: Yes.

The Commissioner: Because this course would take him right up to Coneybeg.

Mr. Butler Aspinall: Yes. What he would do would be this: As soon as he got the results of the 4-point bearing, if he ever did, that would enable him to go into his chart room with an officer and mark off on his chart the exact position. He sees where Coneybeg is, and he puts his ship then on the appropriate course to take her close to Coneybeg. Now in that connection I also want to emphasise this: he had met with fog and may meet with fog again, but once he has got his point of departure fixed, then having put his ship on to the appropriate course, if she is properly steered, then she will arrive at the destination which he wishes to reach.

The Commissioner: How far in point of time was he from Coneybeg?

The Solicitor-General: 90 miles.

Mr. Butler Aspinall: At 18 knots it would be between 4 and 5 hours.

The Commissioner: He knew at that time that submarines were about here (pointing to the chart)?

Mr. Butler Aspinall: Yes.

The Commissioner: And that they could shift in the 4 hours very considerably?

Mr. Butler Aspinall: Undoubtedly. I quite appreciate that, but after all warnings had been given in New York that the "Luftwaffe" had been marked down for destruction and when once this gentleman, the Captain, was informed that submarines were off Coneybeg, I submit that it would be not an unreasonable inference for him to think that was just the spot where these people would be waiting for him.

The Commissioner: Where is the Channel—is this it?

Mr. Butler Aspinall: Between the Tuskar and the Smalls.

The Commissioner: Do you suggest that it was wise to make for that Channel at all under the circumstances?

Mr. Butler Aspinall: Yes, my Lord, I do. I suggest that it was wise for two reasons. The big reason was this, that the submarines were operating off the South Coast of Ireland; therefore he got away from the South Coast of Ireland. If he comes through there, he in fact gets away and goes on to the West Coast of Ireland, and I submit that under those circumstances it was a reasonable thing for the Master to deal with the state of affairs as he knew them in the way he did. To have done otherwise, well, I do not know what he could well have done. He might have gone back; he knew that he had passed one, and possibly more submarines whence he had come.

The Commissioner: He knew that one of them was going west.

Mr. Butler Aspinall: Yes, one of them was going west. It was probable, through the information which he received, that this was the danger zone most to be feared off the Coast of Ireland, and the sooner he got away from that, the better.

The Commissioner: That is my difficulty. Was it wise to try and get away by approaching Ceningbeg?

Mr. Butler Aspinall: I can appreciate your difficulty, my Lord, if I may say so with respect. Of course it may be that it may not have been wise to go on, but if he does go on, I submit that it would be wrong to say that the man was guilty of any negligence.

The Commissioner: If it was wise, I have been advised by the gentlemen who sit with me, to go through this channel at all, it appears to me it was wise to go as far to the North as he could.

Mr. Butler Aspinall: So far, that is all I am contending for. Then I have to meet the other matter which your Lordship put: was it wise to go through the channel at all? The man has got into the danger zone, and what is he to do? His wish is, if he can, reasonably safely, to do it, to finish his voyage—seriously.

The Commissioner: And he had any time up to 9 o'clock next morning.

Mr. Butler Aspinall: Yes.

Admiral Inglefield: The time of High Water at Liverpool Bar that morning was 8.44. He could have crossed from 3 to 5. The High Water was 5.44 on the inside.

Mr. Leving: On the 8th.

Admiral Inglefield: I beg your pardon; it was on the 8th.

Mr. Butler Aspinall: The alternative of course would be for him to go on, but what was he to do? Was he to put back again away from the shore? That would be the only reasonable thing to do if he had made up his mind not to go on.

The Commissioner: I think it is suggested by Sir Edward Carson or some one that he might have signalled about here (pointing to the chart), and that he had plenty of time to do it.

Mr. Butler Aspinall: Now, my Lord, dealing with that, what would that have meant? If off the South Coast of Ireland he remained signalling about, it would have meant that whilst he was signalling—no doubt a very admirable measure for the purpose of avoiding a shot from a submarine—he in fact is covering a very large area of ground whilst he is signalling.

The Commissioner: No doubt.

Mr. Butler Aspinall: But whilst he is covering that large area of ground, he may have been covering the very area which he wished to avoid. He is covering ground to the danger zone.

The Commissioner: Yes, but he is covering it in a way which minimises danger very much.

Mr. Butler Aspinall: No doubt, it may be that that is so. He is wishing to avoid this danger zone, and he had got to make up his mind what the best thing is to do, and he is confronted with a class of difficulty which is unusual to a mariner. He is not a man of war; he is a man of peace, and is accustomed to navigate his ship, and, having applied his mind to it, he comes to the conclusion: let me get away from this danger zone.

The Commissioner: Do you think he applied his mind in that way?

Mr. Butler Aspinall: Well, he says he did. He may have been a courageous sailor, but, after all, one has got to judge of him by who he is and what experience he has had in the past.

The Commissioner: The best thing for him to do, having regard to the telegram which told him that there were submarines 20 miles south of Ceningbeg, was to make a move and get clear.

Mr. Butler Aspinall: Yes, get out of the danger zone.

The Commissioner: He would remain in the danger zone.

Mr. Butler Aspinall: Yes, he would have remained in it, but he would not have remained in it for anything like the same length of time.

The Commissioner: Do you mean to say he got out of the danger zone?

Mr. Butler Aspinall: He did not get out of the danger zone, but he got out of the danger zone as to which he had information by wireless, namely, that there were submarines operating off this part of the coast of Ireland. It may be that he would meet with fresh dangers, but, of course, he had got to deal with dangers as they occurred. The dangers as they were occurring, as the wireless had told him, were there were submarines off the south coast.

Admiral Inglefield: Coming up his danger is minimised because he is in the dark there until he arrives off Liverpool.

The Commissioner: Where would he have been when it became dark supposing he had followed this course?

Admiral Inglefield: It would have put him just in St. George's Channel.

The Commissioner: Can you give me a chart which shows it?

Admiral Inglefield: He would be just there (pointing to a chart).

Lieut.-Commander Hearn: I think we made out that at the speed he was going, taking into account the tides, the moment of danger would be minimised.

Admiral Inglefield: Therefore from this point his danger would be minimised, in that he would be running in the dark from here up to Liverpool Bar. This part would be traversed apparently in darkness.

The Commissioner: Very well. You say that he would be about here, Commander Hearn, at half past seven.

Lieut.-Commander Hearn: About here at half past seven.

The Commissioner: And you take it that it was coming on dark then at all events?

Lieut.-Commander Hearn: It would be about sunset then.

Admiral Inglefield: Sunset on that day was at 7.50. May I point out that he would have been under high land here and the sun would have been setting over there, and he would have been equally more in safety inasmuch as he could not have been observed against the sky line.

The Commissioner: He would be here, and then he would have his run to Liverpool in the dark.

Admiral Inglefield: Yes.

The Commissioner: And that is one of the things that he is advised as far as possible to do.

Mr. Butler Aspinall: May I also make this suggestion? The submarines of which he had been told were the ones that were away by Cape Clear, and the others were those which were operating off Ceningbeg.

The Commissioner: Ceningbeg is there, is it not? (Pointing to the chart.)

Mr. Butler Aspinall: Yes. In truth and in fact the submarine that succeeded in getting him was one which had not been reported to him, or he looks for one which had been reported to him, and which was apparently coming from the southward. It was a submarine apparently some way away when seen from points on the starboard bow. Now that shows the danger of the submarines which were operating off the South Coast of Ireland, speaking quite generally, and I submit that that to a large extent makes good my point that it would have been undesirable that he should have remained in the place where apparently there were quite a large number of submarines, some known to the Admiralty and others unknown to the Admiralty. The more of that ground he was covering and the longer the time he remained

in that part of the ocean, the more possible it was for the submarine to get him.

The Commissioner: It is a question of prudence. Mr. Butler Aspinall: Yes, it is a question of prudence. He has to choose and he must exercise a good judgment. I want to say, we have the very great advantage of knowing so much now which was unknown to him then; we are sitting upon the matter in real judgment, with an opportunity of looking at the charts, and the circumstances under which we are dealing with it were not the circumstances under which the Master would have an opportunity of dealing with it.

Now, my Lord, to continue with regard to these notices, on page 6 the Attorney-General puts to the witness the one of the 16th of April: "Daily Voyage Notice. For the purpose of the Government War Insurance Scheme the Admiralty consider all voyages may be undertaken subject to local conditions, except the following:—German submarines appear to be operating chiefly off prominent headlands and head-falls. Ships should give prominent headlands a wide berth where not otherwise directed in these notes. Ports such as Dover should be passed at utmost speed." Now, the direction there which concerns me is that "Ships should give prominent headlands a wide berth." The word "wide" is an elastic term, and as the Master said in answer to Sir Edward Carson: "What is a wide berth?" He, in fact, although he was wishful, and properly wishful, to get a fix, a four-point bearing off the Old Head of Kinsale, was much further out from the head than he would be under normal conditions. The blue line, your Lordship remembers, marks the ordinary line; so that, in fact, again the Captain was seeking to give effect to the Admiralty instructions, and he rightly or wrongly thought that he was giving a wide berth, and it is also to be remembered that at the time when he made in those 30 degrees to the northward—that is at 12.45—prior to that he has had the information, namely, at 11.30, of the place where the submarines are operating. In consequence of that wireless he has made up his mind to in fact keep much closer to the northward than he would otherwise do, namely, pass up close to Coningbeg. The key-note, to my mind, upon the point I am putting to your Lordship to his conduct is the information which he got from the wireless at 11.30, and the determination in his mind, in consequence of that information, to go close to Coningbeg. My submission is that in view of that, this man did not contravene or disregard this Admiralty instruction on the 16th of April.

There is one other message on the 22nd of March: "Warn homeward bound British merchant ships that when making principal headfalls at night they should not approach nearer than is absolutely necessary for safe navigation. Most important that vessels passing up the Irish or English Channel should keep mid-channel course." I know which is the English Channel, but I have been wondering, and those who assist me in this case have been wondering, what is the Irish Channel. Is it to be considered as the water south of Ireland, or is it to be considered as the Channel on the East Coast of Ireland? On the East Coast of Ireland a glance at the chart shows that there is undoubtedly a channel there, but it is very difficult indeed to say what is the channel and what is the mid-channel when dealing with the South Coast of Ireland. The waters are extremely broad.

The Commissioner: On the South Coast of Ireland there is no channel.

Mr. Butler Aspinall: That is what my suggestion to your Lordship is. That is the difficulty. We have been considering the language very, very closely, and we have come to the conclusion that it is probable the Irish Channel, in which you are to keep the mid-channel course, is off the Eastern Coast of Ireland.

The Commissioner: Is that St. George's Channel? (pointing to the chart).

Mr. Butler Aspinall: Yes, St. George's Channel or the Irish Channel.

The Commissioner: Is it sometimes called the Irish Channel?

Mr. Butler Aspinall: Yes, sometimes. My point is that there really is not a channel on the South Coast of Ireland at all. There is a channel up there (pointing on the chart); whether it is a narrow channel or

not is another matter, but there is really no channel there. When you get through this narrow channel, then my submission is that you are in the Irish Channel, so that if it could be suggested that there was any impropriety in the Master not steering a mid-channel course, my submission is that this particular advice on the instruction of the 22nd of March has no application to this case; but the Admiralty are there desirous of telling mariners that it is most important that vessels passing up and down the Irish Channel or the English Channel should keep a mid-channel course.

My Lord, the next document which was put to the witness was this. It is not an instruction, but of course it is none the less valuable in consequence of that. I understand the way the Captain got at it is this, and it gives the mariner the result of the experience of the Navy. It tells him this: "War experience has shown that fast steamers can considerably reduce the chance of a successful surprise submarine attack by zigzagging, that is to say, altering the course at short and irregular intervals, say, 10 minutes to half an hour. This course is almost invariably adopted by warships when cruising in an area known to be infested by submarines. The underwater speed of a submarine is very low, and it is exceedingly difficult for her to get into position to deliver an attack unless she can observe and predict the course of the ship attacked. It is believed that the regulations of many steamship lines prescribe that the master shall be on deck whenever course is altered"—and so on.

Now, my Lord, with regard to that, the position that the Captain took up when he was giving his evidence here was that he had misread that, and he thought that it meant you were to zigzag after you had sighted the submarine. He agreed with Sir Edward Carson, looking at it in view of the fact that Sir Edward has called attention to the matter with some eloquence, that his early construction was probably wrong. After all the man was not a lawyer.

The Commissioner: I do not think it requires a lawyer to construe that.

Mr. Butler Aspinall: I think I have got a very much better answer than that—

The Commissioner: Than the Captain had?

Mr. Butler Aspinall: Yes. It was for this reason that I, at the outset of my remarks, emphasised the fact that I did not think the Captain in giving evidence always did full justice to his own case. For instance, your Lordship may remember that he mentioned not a word about Coningbeg till after lunch. When I said to him after lunch, Now pull yourself together and think before you answer, he said, "Oh, yes, Coningbeg; I have forgotten all about it."

The Commissioner: He had not seen that point.

Mr. Butler Aspinall: Oh, yes, he had, my Lord. And where I made my position good with regard to the Captain is this, that the Board of Trade had written a letter to Messrs. Hill Dickinson, asking them to direct the Captain's attention to certain points, and as the result of that, he had drawn up a proof which was put before your Lordship, in which he alluded to the fact of his going so close to Coningbeg. So that long before Sir Edward Carson was taking him through these matters and pointing these things out to him, he had in answer to the letter from the Board of Trade told Messrs. Hill Dickinson, "Oh, yes, I was going close to Coningbeg."

The Commissioner: Just read me the passage.

The Solicitor-General: It is in the Shorthand Note. "On the morning of the 7th May, at about 11.30 a further wireless message was received which reported submarines in the Southern part of Coningbeg Light and last heard of 30 miles South of Coningbeg Light and Vessel. I then decided to pass close to Coningbeg and at 12.40 p.m. after Gilly Head was sighted on the port bow, I altered course gradually to 30 degrees more to the northward to N. 63 E."

The Commissioner: Yes, that is it.

Mr. Butler Aspinall: So that it was an excellent defence, in my submission, which the man had overlooked. We were unhappy about it somewhat, because then came the luncheon interval. I need hardly say that not a word passed between us and the Captain, but we got it here, which was sufficient for our purpose, and there it was.

Now, I was merely making three observations in order to show your Lordship that the Master has

not really done the best for himself in his evidence. Now, that leads me to this point with regard to the signagging. I said I had got a much better point I think than the Master's statement that he had misread this advice. My point is this: According to the state of the facts which I mentioned to your Lordship this morning, Mr. Beesing, and those associated with him, were at the time in question doing what was perfectly legitimate, I submit, and perfectly proper, engaged in taking a 4-point bearing, and it was during that half an hour that the catastrophe happens. If they had been signagging, they could not have carried out the operation of taking the 4-point bearing.

The Commissioner: Is that so?

Admiral Inglefield: Yes. They must run steadily on a direct course at a regular speed while the bearing is being taken.

The Commissioner: So that the signagging would have defeated that object.

Mr. Butler Aspinall: It would have defeated a legitimate operation in navigation. There is the Old Head of Kinsale some four points on the port bow, and you run on until you get to it, and the result of that is that you get an isosceles triangle. The distance run from the point where you get the object four points on your bow until you get it abeam, tells you that that is the distance at right-angles of the object which you are off on the land or on the sea, so that if during that period of time they were signagging it would have been quite impossible.

The Commissioner: Then the way you put your argument is this, that it was a proper thing for him to be taking that fix of Kinsale, and he could not do it if he was going to signagging, and therefore signagging was not a proper manoeuvre in the circumstances.

Mr. Butler Aspinall: That is my point, my Lord, upon that. Mr. Laing points out that it is not an order that the man was disobeying, but, of course, for all that, it is valuable advice.

The Commissioner: Well, I do not think there is much difference between "advice" and "order."

Mr. Butler Aspinall: No, my Lord. Mr. Laing mentioned it, but I must confess I do not appreciate the value of it.

Then, my Lord, on page 8 of the Master's evidence there is an instruction or advice on May 6th: "Take Liverpool pilot at Bar and avoid headlands. Pass harbours at full speed; steer mid-channel course. Submarine at Fastnet." Well, that was in the nature of a telegram and not in the nature of an instruction, but there again he is informed that the wish of the Admiralty is that, where it is practicable and where it is reasonable and unless the special circumstances of the case forbid, you are to steer a mid-channel course. That is a point I have already dealt with and it is not necessary to deal with it again.

Then, my Lord, we come to the telegrams that the Attorney-General put to the witness, and that, I think I am right in saying, subverts the directions or instructions that were given to ship masters with regard to the best means of avoiding the submarine menace. My Lord, it really comes to this, I think: three possible grounds of condemnation, namely, that he was not steering a mid-channel course, but he came too near to the shoers. I have dealt with that. I submit. He was entitled to do what he did. Secondly, that it might be wrong for him to be signagging. I have dealt with that. And, thirdly and lastly, that it was improper of him when he had an available speed of 21 knots to be going at 18 knots. Now, with regard to that, the position that he took up was this: I wanted to arrive in the neighbourhood of Liverpool at such time as I should not have to be waiting there. Your Lordship may remember that when Mr. Booth was giving his evidence he said that was one of the matters that he and Mr. Moore, the registered manager, discussed with the Captain and impressed upon them. Mr. Booth said that it was notorious that submarines had been operating in Liverpool Bay, and in consequence of their having that information they had impressed upon Captain: Do not arrive at each a time of the tide that you have to wait outside the Bar; and, my Lord, it was for that reason that he was fit to reduce his speed. Now, if your Lordship is as well as to the propriety of consuming the time by signagging out here, then I submit it is logical for me to say that I am entitled to your Lordship's judgment.

The Commissioner: How long does it take to get what you call a fix?

Mr. Butler Aspinall: It all depends upon the distance you have got to run in order to carry out your 4-point bearing.

The Commissioner: I am thinking about this signagging. When did he begin the operation?

Mr. Butler Aspinall: He began the operation at 1.40.

The Commissioner: He told me that it was not complete at the time when the torpedo struck the ship.

Mr. Butler Aspinall: I think it was 1.50, not 1.40, which is better for me. He began at 1.40, and he had not finished it at the time when the torpedo struck the ship. I think I am right in saying it was 1.50 in fact, and not 1.40, and the Admiral tells your Lordship that it is highly probable it would take half an hour.

The Commissioner: And the torpedoing was at what time?

Mr. Butler Aspinall: At 2.10, and she sank at about 2.25.

The Commissioner: Then there was just about time to complete it.

Mr. Butler Aspinall: No doubt it was just on the point of completion. There was some evidence that she was further off.

The Solicitor-General: The master said 8 to 10 miles.

Mr. Butler Aspinall: Yes. They thought 15, and there was evidence that at the time Mr. Thomas was saved, and no doubt to some extent he changed that evidence, he asked the tag master where he was, and the tag master said, Oh, at least 15 or 16 miles, because we are outside our fishing limits, and she had been running into the land at the time Mr. Thomas asked the question, but I do not wish to labour that point, as to what was the precise cause.

The Solicitor-General: Do not the S.O.S. calls show it at 10 miles?

Mr. Butler Aspinall: I do not think it is very material to the question whether it was 10 or 15 miles. Your Lordship in the early part of my address, I think, put this question to me: Is it legitimate to override the Board of Trade regulations by an Admiralty instruction? It is suggested to me that your Lordship had that in your mind. I mean to say, first of all, for the safe navigation of the ship she must be navigated so that she does not get on rocks or the shore; secondly, give effect, if you can, to the Admiralty instructions so as to avoid the submarine menace. What a careful man ought to do, I submit, is, as far as he can, give effect to both, but there may be special circumstances where it is impossible to give effect to both. Now, if you get your ship ashore in foggy weather, there is certain to be trouble, and in the circumstances of this case what the Captain was doing, and I submit was rightly doing, whilst he knew and appreciated that he had got submarines to deal with, he also appreciated the fact that he must navigate his ship in such a way that he would ascertain his position which he could do by getting his 4-point bearing, and then, having got that, he would be able to make his departure from that point in such a way that he could get through this channel in order to steer an appropriate course. So he has got both matters to consider: the Board of Trade Regulations which deal with the ordinary navigation of the ship, and also the avoidance of the submarine menace.

The Commissioner: What Board of Trade Regulations affect this matter?

Mr. Butler Aspinall: Well, there are the general Board of Trade Regulations, that you are to make your landfall and that you are to ascertain your position, and if you cannot make a good landfall when you know you are somewhere in the neighbourhood of the Coast of Ireland, you are to take soundings which will more or less inform you of where you are; at any rate, warn you as to your position and distance from the land by reason of the nature of the bottom and by reason of the depth of the soundings which you get.

The Commissioner: Your contention, as I understand, is this, that in each case the Captain must use his judgment to see which is the overriding advice or direction.

Mr. Butler Aspinall: Yes; and in the same way, while these instructions from the Admiralty are, of course, of great value, the Master always has to say

so himself this: Here I have got the general instruction that I am to keep in mid-channel, but if in addition to that the Admiralty inform me by wireless that by going into mid-channel I shall meet with dangers which they are unwilling I should avoid, you have out on one side the special instruction, and on the other side he applies his mind to the special circumstances of the case. Your Lordship asked a question on the occasion when the evidence of the Master was being taken in this room with regard to the operations of the submarine in the neighbourhood of Liverpool and off the Liverpool Bar. I have got a hit, and I have also got a covering letter from Sir Norman Hill, if I may be allowed to hand it to your Lordship.

The Commissioner: Which you received this morning?

Mr. Butler Aspinall: No; the letter from Sir Norman Hill came, I think, two days ago. Shall I read the letter?

The Commissioner: Certainly.

Mr. Butler Aspinall: He writes it directly to me: "At the request of the Casard Steamship Company, Limited, who are members of this Association"—that is the London and Liverpool War Risks Association, Limited—"I write to state that from the 30th January up to the present date we have regarded Liverpool Bay as a very dangerous area, and we have issued most stringent instructions to Masters of all vessels entered in this Association to avoid anchoring or reducing speed whilst making the entrance to the Mersey. On the 30th January, two vessels, 'Linda Blanche' and the 'Kilcoan,' were attacked by submarines in Liverpool Bay, and on the same day a third vessel, the 'Ben Crutchen,' was attacked by a submarine off Morecambe Bay light vessel. On the 29th February the 'Cambank' was sunk six miles to the eastward of Point Lynes by a submarine. In consequence we arranged with the Mersey Docks and Harbour Board to shift the Pilotage Station to off the Calf of Man, and for some time we instructed by wireless and otherwise the masters of all vessels to take their pilots at that station. The only Pilotage Station is now at the Bar. On the 9th March the 'Princess Victoria' was sunk in Liverpool Bay by a submarine. From that date there have been no vessels attacked in Liverpool Bay, but we have received constant warnings of the presence of submarines in the Bay, and even close to the Bar, although the Bay is constantly patrolled. Within the last few days a submarine has been sighted more than once off the Great Orme's Head. The information embodied in this letter has been communicated to the members of this Association for the guidance of their masters, but it would be against my instructions to make this information public."

My Lord, I submit, for the reasons I have indicated to your Lordship, that the right answer, as far as the Captain is concerned, is to say that he is not to blame. It is not necessary to say so, but I might say that sometimes the Wreck Commissioner has seen fit to say that even if the Captain has failed, the worst is an error of judgment. My submission is that there is neither error of judgment nor blame.

The Commissioner: Is there any reason to be found in this evidence for charging the owners with negligence of any kind, because that is one of the questions put to me? Let me see what they say: "Does any blame attach to the owners of the 'Lutetia'?"

Mr. Butler Aspinall: I think Mr. Clem Edwards made some suggestion in view of the fact that we were using 19 buoys instead of 25, that that constituted negligence, but I submit that there is no substance in that.

The Commissioner: No, I do not think there is anything in that, subject to what the Solicitor General has to say to me.

The Solicitor General: Your Lordship will of course understand that the function of the Board of Trade here is not to conduct any prosecution of any kind, but merely to assist the Court to arrive at a knowledge of the facts in as far as possible a complete perspective. Of course, had this inquiry been conducted in public, your Lordship would have had the assistance of counsel, who would presumably have been concerned, or would have thought themselves concerned, to establish as against either the owners or the master some degree of responsibility. I draw that inference from

the observations actually made by some of the learned counsel who addressed your Lordship yesterday. Having regard to the circumstances that public considerations have made it impossible to conduct this inquiry in public, your Lordship has no such assistance. All the considerations that can be urged on behalf of the Master have been urged by Mr. Aspinall, and I propose under the circumstances I have indicated to state, not of course as presenting any view on behalf of the Board of Trade, because it is not their duty to form or state an opinion, but I propose to lay before your Lordship some considerations which might or might not lead to an opposite conclusion to that on behalf of which Mr. Aspinall has contended.

Now, my Lord, there is one point on which it is suggested to me that, in fairness to the Captain, I ought to offer a short explanation. Your Lordship has in mind a cable of the 5th of May which was addressed by the Admiralty to all British merchant vessels homeward bound. It begins in the extract I have: "Keep a course in mid-channel and do not make Capes. There are submarines off Fastnet. Keep at full speed passing any Harbours. Two Light Vessels off Folkestone; pass between them. Keep within two miles of shore while between Folkestone and South Foreland. Meet pilot at Liverpool Bar." Has your Lordship got that?

The Commissioner: No, I have not got it.

The Solicitor General: It is the one of the 5th May.

The Commissioner: There are two on the 5th of May. One, "Submarines off the South Coast," and another, "Take pilot at Liverpool Bar."

The Solicitor General: Yes, my Lord, that is the one. It is at the top of page 5 of my learned friend's cross-examination. Now, my Lord, the only reason why I call attention to that is that although this represents, and represents with substantial accuracy, the sense of the decoded message, whenever messages are so decoded for any collateral purpose by the Admiralty, they are always transposed so that in case any ingenious person were to discover the message as decoded and the original, he could obtain the secret of the code, which of course it is vital that no person should obtain. Therefore a transposition is always made, and it has been suggested to me that the transposition has had the result of putting in undue prominence in the message the instruction to keep a course in mid-channel. Now, my Lord, the exact literal rendering of the message when decoded is as follows: "Between South Foreland and Folkestone keep within two miles of shore and pass between two light vessels. Take Liverpool pilot at Bar. Avoid headlands. Pass harbours at full speed. Steer mid-channel course. Submarines off Fastnet." Now, my Lord, that is the precise message as it was delivered, and that was the reason for it.

Now, my Lord, I think the most useful order in which I can deal with these various matters, and I propose to deal with them quite briefly, is, I think, to take chronologically the instructions which were issued to the Master, and then, having considered those instructions and the extent to which he either followed them or deviated from them, to ask your Lordship what answer ought to be given to the two questions which affect the Master, which in form are two, although I think it might be possible to take the view that substantially they are a single question—"Whether any blame attaches to the Master for the loss," a very comprehensive question which appears to cover the other, and, secondly, the more particular question, whether instructions were given to the Master by the Admiralty, and whether he was in default in not carrying those instructions out. We know, of course, that instructions were given, and the question is whether the Captain was in default in not carrying those instructions out.

My Lord, I do not propose to deal now with the instructions which were given so far back as April; for instance, the Confidential Daily Voyage Notice of the 15th of April, "German submarines appear to be operating chiefly off prominent headlands and landfalls. Ships should give prominent headlands a wide berth," "except as showing what an experienced navigator who received this notice so long ago as the 15th of April ought to have had in his mind as the view of the Admiralty, based, of course, as he must have known, upon very wide experience and great consideration. On the 15th of April that was the

notice. Then on the next day there was issued the Confidential memorandum which Captain Turner has now admitted he completely misunderstood: "War experience has shown that fast steamers can considerably reduce the chance of a successful surprise submarine attack by signalling, that is to say, altering course at short and irregular intervals, say ten minutes to half an hour. This course is almost invariably adopted by warships when cruising in an area known to be infested by submarines. The under-water speed of a submarine is very low, and it is exceedingly difficult for her to get into position to deliver an attack unless she can observe and predict the course of the ship attacked." Now, my Lord, Captain Turner, when asked about this, said he understood this to be an instruction or a suggestion which was not intended to be acted upon until the moment that the merchant vessel had actually seen a submarine. The only possible comment, of course, upon that statement is that there is nothing in the language of the instruction which supports such a construction, and there are plain words contained in it which show that that was not its meaning. Indeed, Captain Turner, who, I respectfully agree with your Lordship, gave his evidence throughout with great candour, when he was asked on this point, and his attention was directed to the language of this general advice, admitted at once in a very proper manner that he had not sufficiently considered its terms, and it was now plain that the adoption of the signalling tactics was not in any way limited to occasions on which the submarine had become visible to the merchant vessel which was to adopt those tactics.

The Commissioner: Are not those directions somewhere that if a submarine is sighted the course to adopt is to get it astern and to keep it astern?

The Solicitor General: I do not recall that, my Lord, but there may be.

Commander Anderson: The instructions are to bring it ahead.

The Commissioner: To bring what ahead?

Commander Anderson: The submarine.

The Commissioner: Where are the orders?

Commander Anderson: It is in the order of February 10th, Section B.

The Commissioner: I have always understood that if a submarine is coming, the object is to get her directly astern. What I mean, Sir Frederick, is this, that the interpretation which the Captain was putting upon this order to signal, or recommendation to signal, was inconsistent with some other order.

The Solicitor General: Yes. It is Section 2A which your Lordship has. Is not that the one?

Admiral Inglefield: B and C refer to it. You will see: "When a submarine is ahead or astern"—and so on.

The Commissioner: Very well. Pass on.

The Solicitor General: If your Lordship please. We come then to the material dates of the voyage in the early days of April, and here, my Lord, I must make one submission that may perhaps be worth keeping in mind. Mr. Aspinall in his address to your Lordship seemed to me perhaps somewhat unduly to limit himself to a consideration of what actually took place from the time that the Captain, in order, as he says, to get a fix, approached the land on the day in question. Surely, my Lord, one must begin one's enquiry a little earlier. Here was a case in which the "Lusitania" was sailing under wholly unprecedented circumstances from New York. It was a case in which we know that warnings of some kind had been issued, and of which it is sufficient to say that no one on board was unaware that the voyage was one in respect of which it was to be apprehended that there might be an attack by submarines. Therefore the period of vigilance and of consideration and co-ordination of every step taken for the purpose of bringing the ship safely into harbour was that of course of the whole voyage, and not any particular moment when the vessel was already near the coast of Ireland.

Now, my Lord, bearing that consideration in mind, we come to the 6th of May, when the message received by the "Lusitania" from the Admiralty at Queenstown was "Submarines are active off the South Coast of Ireland," and, as your Lordship has been told, a few minutes later the "Lusitania" asked for and received a repetition of this message. On the 7th of May, a period when of course their attention had been in the most pointed way directed to the fact that the

general submarine menace had materialized at the particular point—on the 7th of May they received a message, "Submarine area should be avoided by keeping well off the land." Now, I would invite your Lordship to consider very, very carefully in relation to this particular instruction whether this was one which the Master carried out in its true meaning, and whether, if he failed to carry it out, the second question, which deals with the position of the Master here, must not be answered in a certain way. I make the general observations I have to make upon this point now. The instructions are that the submarine area is to be avoided by keeping well off the land.

The Commissioner: Which telegram are you referring to?

The Solicitor General: The one of the 7th of May, my Lord.

The Commissioner: To whom?

The Solicitor General: To all British merchant vessels.

The Commissioner: Where is it referred to in the evidence?

The Solicitor General: I will give your Lordship the reference.

The Commissioner: Are you reading from the Admiralty Memorandum?

The Solicitor General: Yes, my Lord.

The Commissioner: Would you tell me where it is?

The Solicitor General: If your Lordship will look, "It has been ascertained that the following wireless message passed" (it is towards the end of the page) "on the 6th May, the 7th May and the 7th May."

The Commissioner: Are you reading from the Memorandum headed "Lusitania"?

The Solicitor General: Yes, headed "Lusitania," my Lord.

The Commissioner: Where is it?

The Solicitor General: It is very curious, my Lord. I cannot explain it at all. Your Lordship's copy is not the same as mine, oddly enough. I have a different document to the one your Lordship has.

The Commissioner: What is the document that you have got?

The Solicitor General: Mine, my Lord, is an Admiralty Memorandum, prepared by the officials of the Board of Admiralty and headed "Lusitania."

The Commissioner: Could you find me any reference to it in the evidence, Mr. Aspinall?

Mr. Butler Aspinall: No, my Lord, it is not in the evidence. It is new.

The Solicitor General: I have been working on it throughout the case.

The Commissioner: This second wireless message dated the 7th of May and addressed to all British merchant vessels, "Submarine area should be avoided by keeping well off the land" is not in the document that I have at all, and I have two or three telegrams on the 6th of May, two of which you do not seem to have.

The Solicitor General: I think they are over the page on your Lordship's copy; they are out of order, I think.

The Commissioner: Possibly they are. It seems to me to be a different document; yet oddly enough it is dated the same day.

The Solicitor General: Yes.

The Commissioner: What is the meaning of it, Sir Ellis; do you know?

Sir Ellis Cunliffe: I think the explanation, my Lord, is that the first date or the first print with the Italian is an exact translation verbatim of the code, and the later one in the event of it being thought that this might be heard in open Court.

The Commissioner: Will you tell me which is the one which is an exact translation, the one which Sir Frederick has or this one?

Sir Ellis Cunliffe: That one is the exact translation.

The Commissioner: Then that is the document that you were to have used in open Court if this part of the inquiry had taken place in open Court?

Sir Ellis Cunliffe: Yes, my Lord.

The Solicitor General: I must confess I do not want the statement. I think it would be very unfair for me when it has been put to the Master and had not been produced in evidence to found any further comment upon it.

The Commissioner: Except that we certainly want

to get at the truth. Do you know anything about it, Mr. Aspinall?

Mr. Butler Aspinall: No, my Lord, I do not. I am told by Mr. Furze that he received what purported to be an exhaustive list of the telegrams, and that is what we have been working on.

The Commissioner: You see I had neither the one nor the other, but Admiral Ingfield has been good enough to get me a copy of the one, and that is the one that you have, I think, Mr. Aspinall, and the one that Sir Frederick Smith has is one I have never seen.

The Solicitor General: Well, my Lord, it is of less importance because the point is really covered by the cable, the wireless of the 5th of May, which I have already dealt with in order to call attention to its exact phrasing.

The Commissioner: Yes. It appears to me that that is so. Therefore, I do not think you need trouble about it.

The Solicitor General: I do not propose to, my Lord, if that is your view.

Nor, my Lord, the observations that I have to make as to the course which the Captain in fact adopted I think can be made in relation to this wireless message of the 5th of May. He has been instructed by this time in the clearest manner that he must give headlands a wide berth, more than once. He knows that to be the Admiralty view. He is now instructed to keep a mid-channel course, so that on a dangerous voyage and one known to him to be dangerous, he is informed that the Admiralty instructions are, (a) to avoid headlands, and (b) to keep a mid-channel course.

Nor, my Lord, certain observations were made upon these instructions and upon the position of the Master in relation to those instructions by Mr. Aspinall. My Lord, I do not think it necessary to argue at any length what the position of the Master would be if he received instructions from the Admiralty which were in conflict with instructions issuing from another Government Department. It must, I suppose, so your Lordship indicated, be clear that the Captain must use his experience and discretion in the position in which he is placed in judging which instruction is an overriding obligation, and in reaching such a conclusion he will properly give due weight, not an excessive weight, but due weight to the fact that the Admiralty instructions are issued in direct relation to a particular crisis which is hypothesized has arisen, and that the other instructions are of a more general character.

Nor, my Lord, it is possible to deal with the effect of the receipt of these instructions to the Master in a variety of ways, but I think it is better to adopt, and fairer to adopt, the explanation or explanations which he himself puts forward. In the first place, he said in answer to the Attorney General, "Speaking as a seaman, I was in mid-channel." Well, my Lord, you are advised upon these points by very competent professional gentlemen, and I do not propose to expend any time in arguing whether this was mid-channel or not. The only observation I would make upon it is that it certainly was not mid-channel in any language of geographical precision. A doubt is indicated by my learned friend, Mr. Aspinall, as to whether at this point there is any tract of water to which the description mid-channel can properly be applied at all. I certainly do not intend to waste any time upon such a controversy. I make this observation only, that it should be considered whether it is reasonable to ask from these who are giving instructions of this kind by wireless and communicating words of explanation from the nature of the case—that they should be expected to say to a Captain of a vessel when they are giving these instructions, we cannot use the expression "mid-channel" because there is not anything which can be precisely called a channel there, but we mean you to keep far away from the shore in the kind of manner that we should direct you to do by using the expression "mid-channel" if there were a channel. Surely it is to be considered whether the true view is not that every sailor would know perfectly well the meaning of the instruction was to keep a mid-channel course, and if he chooses to disregard that instruction he cannot be reasonably heard to say, "Oh, well, I could not keep a mid-channel course there, although a few miles afterwards I could have done because

there is really, if you look at the map, not a proper channel at all there."

The Commissioner: Or any channel?

The Solicitor General: Or any channel. It is to be considered, I submit, my Lord, whether this is not the plain meaning of it, that he was to keep a deep water course at a very considerable distance from the land just as if there had technically been a channel there he would have done if he had kept on a mid-channel course. The Court will consider whether that is not the meaning.

Nor, my Lord, you must of course consider together the instruction to keep a mid-channel course and the very specific caution to avoid headlands. Now, what does the Master say about his failure, if it was a failure, to avoid headlands in the vicinity of the Head of Kinsale? He says, and if it is true it is a good answer, "It was necessary for me as a seaman to approach as closely as I did approach the Old Head of Kinsale in order"—so use his own expression—that he should get his fix or should get a 4-point bearing. Now, here again your Lordship is advised of course by highly trained gentlemen, and I, for that reason, do not propose to argue this point at any length, but I merely indicate the considerations on which it is possible your Lordship might seek some guidance. In the first place, I desire to indicate a doubt as to whether on a clear day with the sun shining, on a familiar voyage in daylight made by an experienced seaman used to that very voyage, there was the slightest necessity to get a fix at all. That suggestion I make, of course, for consideration and after having taken advice. I suggest that it would have been perfectly possible under all the circumstances which I have indicated by a seaman's observation to decide with complete safety the position of the vessel. That is the first observation. Then I make a second: that it was perfectly possible on the statement of the Master himself without coming to get his fix or a 4-point bearing, to have checked his position by taking cross-bearings. Your Lordship has, I think, the Master's statement sent by his solicitors, or by the solicitors of the company, Messrs. H.R. Dickinson and Company, I think it was sent by them to the Board of Trade: and, my Lord, this is how the Master puts it in that document which my learned friend, for other purposes, has referred to. He says: "With respect to the courses steered: From Latitude 40 degrees 30 N. and Longitude 49 W. the 'Lusitania' was navigated on a great circle towards Fastnet and when approaching Ireland made a course to pass 20 miles off Fastnet. Ireland was sighted at about 12.10 p.m. on the 7th May when Brow Head bore about two points abeam the beam. The 'Lusitania' was then about 25 miles distant from Brow Head." Your Lordship notes that at 12.10 Brow Head bore about two points abeam the beam. That is important in view of the consideration I am going to urge upon your Lordship in a moment. "Fastnet was not visible, the weather being clear. The course then and for some time previously steered was S. 87 Magnetic, so that Fastnet when abeam was about 20 miles distant. The weather which had earlier in the day been misty, cleared between 11 o'clock and noon. The ship's speed was 18 knots. There was a light breeze and a smooth sea. The course S. 87 E. was steered because it was a safe and proper course when inward bound off the Irish coast, particularly in view of the Admiralty instructions. This course of S. 87 E. was maintained"—this is important—"until 12.40 p.m. when Galley Head was sighted a long distance off on the port bow." Well, my Lord, I calculate that on Galley Head was some 25 miles away when it was sighted, having regard to the bearings given by the Master. Nor, my Lord, if it was possible for him, so it was, to see Galley Head, he was 30 miles from Brow Head at that time; he was 25 miles away from Baltimore Bay; 25 miles from Galley Head; 22 miles from Cape Clear, and he was well within sight of Tow Head, at a distance of about 21 miles.

Nor, my Lord, under those circumstances, the time being 12.40 then, 20 minutes to one, the view which I should like your Lordship to consider with the professional gentlemen who sit with your Lordship is this: whether there was the slightest difficulty, or that I am wrong in suggesting that a seaman's observation would have been adequate to determine his position

tion with complete safety; or, if I am wrong in saying that, whether at any rate of this time there was not the most ample means of ascertaining his precise position by taking cross-bearings.

The Commissioner: You mean at 12.40?

The Solicitor General: Yes, at 12.40.

The Commissioner: How far was he from the land then?

The Solicitor General: From Brow Head he was 30 miles; from Cape Clear he was 22 miles; from Baltimore Bay he was 22½ miles; from Galley Head he was 23 miles; and from Vau Head he was about 22 or 23 miles.

The Commissioner: Was not he too far away?

The Solicitor General: No, my Lord, he was in sight of Galley Head, and he said in his statement that he could see Galley Head.

The Commissioner: He said to me that the weather was very clear, and that you cannot depend upon the eyesight when the weather is so very clear.

The Solicitor General: What he says in his letter is (and he gives the course which was maintained, as your Lordship remembers, till 12.40) that Galley Head was sighted at 12.40, in the letter I am reading. Now Galley Head was 23 miles away, taking his own markings and working them out.

The Commissioner: But what I mean is this. Could he by eyesight judge that it was 23 miles away?

The Solicitor General: For the purpose of making his observations he would not require to know it. All that you want is, in order to check your position by cross-bearings, to get certain places that you can identify. I believe that is so. And if you can get certain places which you can so identify, then you check your position by taking cross-bearings; it does not matter how far you are.

Admiral Jellicoe: That is only approximate, at that great distance.

The Solicitor General: I cannot, of course, and I shall not attempt to enter into any controversy upon the point. I am much obliged to the Admiral. The suggestion I would make is that you can measure and obtain these distances on the chart when you have got the facts in respect of which the measurements are applicable. If I am told that you cannot obtain a reliable bearing by either of the means I have suggested, I should rejoice very much if the Court was able to take that view.

Now, my Lord, these are the two observations which I have to make upon that point, and I come now to deal with a further point, and it is the point which is made by my learned friend, Mr. Aspinall, and which was taken by the Master in the letter which his solicitors wrote to the Board of Trade with reference to the message that the submarine was a Coningbeg. Now, my Lord, the whole point there, it seems to me, can be dealt with with very brevity: it is a very short point. It is said by Mr. Aspinall, and said by the Master in his examination by Mr. Aspinall, that as he was informed that this submarine was 20 miles to the south of Coningbeg, receiving this information on the 7th, that that is a complete justification for him adhering roughly to the course he was on, but by so doing he was disregarding the other and more general Admiralty instructions. I suppose the way he would put his case would be to say that all general instructions have to yield to the particular warning as to the position of this submarine south of Coningbeg.

Now, my Lord, my observation upon that is that it requires very careful consideration whether he did not adopt the most dangerous course of the alternative courses that were open to him. He has been told that he is to obtain a headland as far as possible in the dark. He gets his headland in daylight, and then, because he knows that 80 knots away, some four or five hours steaming, a submarine has been seen, he keeps on his existing course in a degree of perilous proximity to the shore and under circumstances which would bring him to the particular point of danger in broad daylight.

Now, my Lord, when it is asked, what other course it is suggested he ought to have adopted, I reply that it must be considered whether Mr. Aspinall has made any satisfactory, or indeed any reply, to the suggestion which has already been made as to what the Captain ought to have done. One must always remember that this was a case in which time was absolutely unimportant. All the Captain had to do, if it humanly could be done, was to

carry the "Lusitania" into the Mersey, and if a week or two had been wasted it would of course have been an utterly unimportant consideration.

Now, my Lord, what must be considered that he ought to have done is this. When he received the message about the submarine off Coningbeg, ought he not to have examined the matter in the following spirit? I am warned that four or five hours journey away a submarine is waiting at Coningbeg. Is it either still there, or it is not still there. If it is not still there, I ought instantly to go out to sea in order to carry out the letter and the spirit of the Admiralty instructions about a mid-channel voyage. If, on the other hand, it is still there, am I justified in going past or reasonably near the place where it is in daylight affording it may be a conspicuous target? Then would not a reasonable man have asked himself thus further questions? Is there anything else that I can do which will fill in the hours until darkness with relative security and enable me to pass this dangerous point if the submarine is still there with the minimum of risk? My Lord, first of all, what did he do, and, secondly, what might he have done? What he did do within 9 or 10 miles of the headland was to travel at a speed of 18 knots instead of 23, intending to adhere to the course which he has indicated. What he might have done is an issue to be considered. What he might have done was simply to carry out the Admiralty regulation by getting away at all costs from the land, either by suggesting or otherwise, without adopting Mr. Aspinall's suggestion that he might have turned back, which would have been foolish in view of the news with respect to the submarine travelling west, that he might with a great degree of safety have consumed the time until he could make a rush through the channel, which we are all agreed he must pass through at some time or other; the Tanker and the Battleship, when it was dark. My Lord, if he had done this and if an accident had happened, and surely this is the way to consider it, my Lord, on what possible grounds could his conduct have been criticised if he had adopted this course? What could have been said in the way of reflection upon his care, prudence or confidence had he adopted the course which I am suggesting? By doing so, he would have complied with the letter and with the spirit of the Admiralty regulations, and all the time he would have avoided many of the risks which he most evidently ran, and I do not, as at present advised, see the risk that he would have run which the course he adopted enabled him to escape.

The Commissioner: You cannot tell that.

The Solicitor General: No, I say I do not see one, but of course what one has to do is to put oneself in the position in which he was with the knowledge which he had before him, and I suggest it may be considered whether the language I have used goes too far.

The Commissioner: All the knowledge he had I suppose about submarines was the telegram to tell him that there were submarines 20 miles south of Coningbeg?

The Solicitor General: Yes, and, secondly, that it was an infected area, and in the view of the Admiralty the coast line was particularly dangerous.

Now, my Lord, unless there is any other point upon which your Lordship thinks I can help you, I think that exhausts all the points I wish to make. I ought, perhaps, just to say this with reference to the Admiral's observation upon the point I was making with reference to cross-bearings. It is, of course, a balance of considerations, and it may be that your Lordship will think it worth while to enquire whether either a certain observation or a bearing depending upon a choice of various identified points on the littoral, even if not meticulously accurate, would not under the special circumstances of this voyage, have provided the Master with a degree of precision adequate for all practical purposes and preferable to the risks which he ran in order to obtain an ideally desirable bearing. My Lord, I hope I have made that clear.

The Commissioner: Yes. You stated to us quite accurately when you began that the only object of the Board of Trade is to get at the truth. We are not in the position of Magistrates, and the only question I want to ask you is this. Is there anything which occurs to you which can be said in

favour of the Captain in the course that he followed?

The *Solicitor General*: Well, my Lord, if I were putting it in favour of the Captain, I think I should lay very great stress on the extraordinary difficulties in which he found himself and upon the responsibilities of the voyage, and I think I should further remember that all the instructions which he received (I think my memory serves me rightly there) were general instructions with the exception of the instruction with regard to the submarine which was 50 miles away at Conningby.

Now, my Lord, if I may humbly say so, in deciding this matter I should certainly, I think, consider at any rate very carefully what course one could really exact from him, because that is really what it comes to, having regard to the fact that he had these general warnings about headlands and that he had this specific warning about a submarine to the south of Conningby. Is his failure to do what I suggest he might have done, to go out to sea, a ground upon which a Captain is entitled to do what undoubtedly would have the greatest possible consequence? I cannot put it higher than that.

Mr. *Butler Asspell*: My Lord, might I say one word with regard to the failure, on the part of the Captain, to go out to sea. Off the South Coast of Ireland there were undoubtedly submarines. The suggestion is that the danger might have been avoided if the Captain had gone out to sea. It would have meant that this great vessel in daylight was capable of being seen by those on the submarine which were operating, and I submit, in view of the fact that apparently there were several submarines, that for her to be putting out to sea, a big object as she was, it is highly probable it would have been inviting attack.

With regard to the other two points which the *Solicitor General* made, namely, the sextant point and the cross-bearing point, it is to be noticed that Sir Edward Carson did not put these points to the witness.

The *Commissioner*: What is the area over which a submarine can sight these ships—what is the radius?

Admiral *Ingfield*: I should say if it is calm weather, and he had come out of the water, his eye would be as much as 14 feet off the level of the sea, and the "Lusitania" funnels would be 150 feet up, he could see the smoke from her funnels from 15 to 20 miles on a calm day.

The *Commissioner*: I want to know what area he can see through the periscope.

Admiral *Ingfield*: About 5 miles.

The *Commissioner*: Do you mean a radius of 5 miles?

Admiral *Ingfield*: Yes.

The *Commissioner*: With his eye he can see the smoke, you say?

The *Commissioner*: Can you say what the 14 feet represents?

Admiral *Ingfield*: The top of his conning tower would be about 8 or 9 feet, and his eye would be another six feet, and on a clear day, with those big funnels, taking the height of the ship, it would be 150 feet to the top from the water line, and he could see the three streams of smoke coming out of the funnels. There is one thing I should like to ascertain—to find out if on the forenoon of the 7th he ascertained his position in any way by observation to the south—the usual observation taken at sea.

The *Commissioner*: Can any one tell me whether in the forenoon of the 7th the Captain took an observation, or whether he did not?

Mr. *Butler Asspell*: We will go and ascertain that, my Lord.

Captain WILLIAM THOMAS TURNER recalled.

Admiral *Ingfield*: At any time on the forenoon of the 7th did you or your officers take any observation of the sun for fixing your position, either by latitude or longitude?—No.

Captain *Turner*: I should like to ask why you did not take the observation?—Because the officers were more particularly looking out for submarines and periscopes.

But you could have got them?—Yes, you could have got them, decidedly. The weather was quite clear.

The *Commissioner*: Anyway, you did not?—No, I did not, it is quite true.

The *Commissioner*: Now, Mr. *Solicitor*, there is a gentleman outside who is very anxious, apparently, to add something to the evidence. I am not going to take the responsibility of sending him away. You have been told, I dare say, what he proposes to say.

The *Solicitor General*: Yes. What he proposes to say relates to the sounding of the siren during the fog, and I will ask Captain *Turner* about that, if you will allow me. (To the Witness): When you stopped because of the fog, did you sound your fog horn?—Yes, certainly.

All the time?—All the time, automatically, every minute.

Did it occur to you that that might be very dangerous, having regard to the submarines?—No.

Would it not have been audible for a long way?—No doubt.

How far were you away from the shore where you were, roughly?—I should think pretty well over 30 miles from the shore at that time, or more—40 miles. (The Witness withdrew.)

The *Solicitor General*: That is the point the witness wishes to make, and we have now got it from the Captain.

The *Commissioner*: If you are satisfied, that is enough.

The *Solicitor General*: I did not want it, but there is no dispute about it.

The *Commissioner*: Now I should like to ask a question. I shall have to deal with this point, and having regard to the form of the questions—I suppose the issue has been carefully considered—it is possible for us to give a very short answer. "Were any instructions received by the Master of the 'Lusitania' from the officers or the Admiralty before or during the voyage from New York as to the navigation or management of the vessel on the voyage in question?" You will observe, Mr. *Solicitor*, that that does not ask, "and what instructions?" Therefore that question can be answered by Yes or No. Then, "Did the Master carry out such instructions?" Well, that question can be answered Yes or No, and I should like to know whether you think it wise that we should attempt to answer in detail. I will tell you what is running in my head. If we blame the Master, there is an appeal from our decision, and that appeal cannot be properly heard—at least, I think not—if we give a judgment which gives no reasons. I am talking about this particular voyage, of course; and I am not sure that it is desirable to give reasons. I mean in the public interest. I can conceive that the appeal might be heard in camera, and that the reasons that we give might never be heard of by the public, but the larger the audience to which these observations are made, the greater the risk, and I should like to know from you whether, as representing the Board of Trade, you proposed these questions and put these questions before us, what kind of answers you really wish us to convey.

I fancy—I do not know, because I saw a previous draft of the questions, and then I saw this draft of the questions, and this draft of the questions departed from the previous draft in the way, that the previous draft asked what were the instructions, and this draft does not, and as this was the final draft, I came to the conclusion that those advising the Board of Trade had purposely abstained from asking what the instructions were.

The *Solicitor General*: That was so, my Lord.

The *Commissioner*: Very well. Then, of course, if I understand that that is so, I should probably not attempt to refer to the instructions and should confine myself to a simple answer, yes or no.

The *Solicitor General*: Yes.

The *Commissioner*: Then comes the next question which I think is answered by the way you have answered the first question because if we are to go into details in answering the question, "Did the Master carry out such instructions?" it would be almost impossible to avoid saying what the instructions were.

The *Solicitor General*: Is your Lordship quite right in saying (I have not considered the point before) that an appeal would be in any way hampered by

the fact that those questions had not been answered with greater fulness than your Lordship contemplates?

The Commissioner: All I can say is that if the matter comes on appeal before a tribunal, according to my notion, it is very desirable that the tribunal should know what the reasons were which guided the tribunal below.

The Solicitor General: Of course, I agree respectfully with your Lordship, but I think there would be no difficulty. At least, I should assume that there would be inherent powers in the Court of hearing it in camera there.

The Commissioner: I assume so. I never heard of such a thing as taking an Inquiry of this kind in camera until this case.

The Solicitor General: It arose in the case of that spy when the Attorney General presented at the Old Bailey.

The Commissioner: I know it was taken in camera in that case. I have no doubt that it would be possible to hear the appeal in camera. I do not see any difficulty about it.

The Solicitor General: It is possible that the difficulty which your Lordship indicates, that the Court will not have any full detailed reasons for these answers, might be met by asking you in more detail what your reasons were, if that point arose.

The Commissioner: It might be, and I could tell them by word of mouth.

The Solicitor General: Yes.

The Commissioner: Very well. Then I think that would be the most convenient course. Now I shall not close this Inquiry in case we should want any further evidence or in case we should want any further assistance from Counsel. I simply now adjourn *in vacuo*.

(Adjourned sine die.)